JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

GENERAL ASSEMBLY

of the

COMMONWEALTH OF KENTUCKY

Extraordinary Session of 1976

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1976, and
in the One Hundred and Eighty-fifth
Year of the Commonwealth

Begun on the First Day of December, 1976, and Adjourned
Sine Die on the Eighteenth Day of December, 1976

Paid from State Funds

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Section 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes,* the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This volume represents the fullfillment of this obligation for the House of Representatives of the Extraordinary Session of 1976.

The text of a bill is spread in full when it receives a first reading. The roll call on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended.

Mrs. Shan Stone Gray and Mrs. Martha Jane Rogers prepared the House Journal for the Extraordinary Session of 1976. The edited copy and index found in this volume reflect the cooperative efforts of the Commission's staff.

PHILIP W. CONN
Director

The Capitol
Frankfort, Kentucky

JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
COMMONWEALTH OF KENTUCKY

FIRST EXTRAORDINARY SESSION OF 1976

WEDNESDAY, DECEMBER 1, 1976
FIRST LEGISLATIVE DAY

At an Extraordinary Session of the General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on December 1, 1976, and in the one hundred and eighty-fifth year of the Commonwealth, in compliance with a proclamation issued by the Governor of the Commonwealth, the House of Representatives was called to order by the Honorable William G. Kenton, Speaker of the House of Representatives.

Prayer by the Reverend Andrew E. Newcomer of the First Presbyterian Church, Frankfort.

The Clerk read the following Proclamation:

PROCLAMATION
by the
Governor
of the
COMMONWEALTH OF KENTUCKY

To The General Assembly Of The Commonwealth Of Kentucky And To All Whom These Presents Shall Come:

Pursuant to the power vested in me by Section 80 of the Constitution of Kentucky to convene the General Assembly into Extraordinary Session, I, Julian M. Carroll, Governor of Kentucky, do issue this, my proclamation, convening the General Assembly of Kentucky in Extraordinary Session at the Seat of Government, Frankfort, Kentucky, at 1:30 p.m. (EST), Wednesday, December 1, 1976, for the sole purpose of considering the following subjects:

(1) The enactment of legislation to implement Sections 109 through 124 of the Constitution of Kentucky, including the schedule of transitional provisions in Section 2 of Chapter 84 of the Acts of the 1974 General Assembly, and the enactment of the necessary legislation relating to the duties, functions, compensation and expenses of officials and the responsibilities of governmental entities affected thereby and to provide for the levy, assessment, collection, accounting and disposition of fees, fines, forfeitures and costs from the Court of Justice and to make all necessary appropriations of funds and to provide the necessary facilities, personnel and

services required by such enactments.

(2) The enactment of legislation relating to a certification program for underground coal miners, authorizing the employment of mine safety analysts by the Department of Mines and Minerals, revising KRS Chapters 351 and 352 as they pertain to mine safety, and appropriating the necessary funds therefor.

(3) The enactment of legislation regarding the imposition of sentences for capital offenses.

(4) The enactment of legislation pertaining to metropolitan sewer districts in counties containing cities of the first class.

(5) The amendment of KRS 342.730, 342.740 and 342.750 to increase benefits for disability to sixty-six and two-thirds (66 2/3%) percent of an employee's average weekly wage not to exceed sixty (60%) percent of the average weekly wage of the state; to enact legislation limiting the minimum benefits provided in KRS 342.740(1) to awards for total disability, providing for an increase of benefits for permanent partial disability to such minimum and a corresponding decrease in the compensable period where the benefits are less than the minimum so provided; to enact legislation to provide for the payment to the estate of an employee with no statutory dependents whose death is directly attributable to a work related injury the sum of ten thousand ($10,000) dollars in addition to the amount provided in KRS 342.720, subject to a credit for any income benefits previously paid for the same injury.

(6) The enactment of legislation amending KRS 342.122 as it pertains to the method by which assessments are levied upon self-insured employers and to amend KRS 342.345, 342.350 and 342.495-.550 relating to methods of providing workmen's compensation insurance.

(7) The repeal of KRS 61.928 and re-enactment of KRS 61.360.

(8) The amendment of KRS 278.047(2) by the addition of the word "electric" before the word "utilities."

(9) The amendment of KRS 136.070 relating to corporate license taxes to equalize the treatment of corporations operating through non-resident subsidiaries with those operating through divisions at the election of the taxpayer corporation and to make provision for defining the "capital" of a holding company.

(10) The enactment of legislation relating to enrollment in a qualified health maintenance organization as an option to regular group health benefits by state and local government employees.

(11) The amendment of KRS 139.170 to clarify the fact that the sales tax exemption applicable to "machinery for new and expanded industry" applies to machinery for processing and extracting industries.

(12) The enactment of legislation pertaining to the construction of wills and trusts in the application of Section 2002 (d)(1)(B)(iv) of the Federal Tax Reform Act of 1976.

(13) The enactment of legislation restoring the exemption from distribution and sale of personal property or money to the amount of three thousand five hundred ($3,500) dollars provided in KRS 391.030 to spouses renouncing the will of a deceased spouse.

(14) The enactment of legislation authorizing the establishment of a basic coverage compensation fund for the payment of claims for damages for malpractice against the University of Louisville and its agents.

(15) The enactment of legislation to authorize alternative methods for voting in any county where the presentation of all candidates comprising the official ballot cannot be accomplished upon existing equipment.

(16) The enactment of legislation amending KRS 16.055 relating to the promotion of state police personnel to the rank of sergeant.

(17) The enactment of legislation relating to the investigation and prosecution of criminal charges and the functions, duties, authority, compensation and expenses of the Attorney General, the Commonwealth's Attorneys, and the County Attorneys, and to appropriate the necessary funds therefor.

(18) The enactment of legislation amending KRS 138.220, 138.660, 234.320 to provide for the assumption by the state of an amount equal to any decrease in the rate or an increase in the tax credits provided by 26

U.S.C. 4081 and 26 U.S.C. 4041 imposed by the federal government.

(19) The enactment of legislation amending Part I, A(11)(c) of Chapter 55 of the 1976 Acts of the General Assembly to provide that any unexpended balance in the account for salary improvements for state employees at the close of the 1976-77 fiscal year shall not lapse, but shall continue into the 1977-78 fiscal year.

(20) The adoption of a resolution creating a commission to review the statutes on County Government and to make recommendations to the 1978 General Assembly, and to appropriate the necessary funds therefor.

(21) The enactment of legislation to make the necessary appropriations, and to amend any previous appropriations for such purpose, for the following agencies, departments, bureaus or programs:

(a) Kentucky Center for Energy Research;
(b) Council on Agriculture;
(c) General Contingency Fund;
(d) Kentucky Employes' Retirement System;
(e) Bureau of State Police;
(f) Bureau of Corrections;
(g) Executive Department for Finance and Administration;
(h) Department of Banking and Securities;
(i) Office of Public Defender;
(j) The Special Fund.

DONE AT THE CAPITOL, in the City of Frankfort, this the 24th day of November, in the year of Our Lord One Thousand Nine Hundred Seventy-six and in the year of the Commonwealth the One Hundred Eighty-fifth.

JULIAN M. CARROLL
GOVERNOR

Drexell R. Davis
Secretary of State

The Clerk read the following Certificate from the Secretary of State listing duly elected and qualified members:

COMMONWEALTH OF KENTUCKY

FRANKLIN COUNTY

I, Drexell R. Davis, Secretary of State of the Commonwealth of Kentucky, do hereby certify that, according to the records in the Office of the Secretary of State of the Commonwealth of Kentucky, and the best information obtainable, the attached is a true and correct list of the duly elected and qualified members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky.

Given under my hand and seal of office, this 1st day of December, 1976.

DREXELL R. DAVIS
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY

Members of the House of Representatives

1976 Kentucky General Assembly

1ST DISTRICT Ward (Butch) Burnette (D)
404 Fourth Street
Fulton, Kentucky 42041

2ND DISTRICT Lloyd Clapp (D)
Box 85
Wingo, Kentucky 40288

3RD DISTRICT Dolly McNutt (D)
105 Country Club Lane
Paducah, Kentucky 42001

4TH DISTRICT J. W. Boatwright, Jr. (D)
Route 7, Box 130
Paducah, Kentucky 42001

5TH DISTRICT Kenneth C. Imes (D)
201 South Third Street
Murray, Kentucky 42071

6TH DISTRICT J. R. Gray (D)
Route 3, Jackson School Road
Benton, Kentucky 42025

7TH DISTRICT Joe McBride (D)
Route 1
Waverly, Kentucky 42462

8TH DISTRICT H. Ramsey Morris, Jr. (D)
Rural Route 2
Hopkinsville, Kentucky 42240

9TH DISTRICT James E. Bruce (D)
Route 1
Hopkinsville, Kentucky 42240

10TH DISTRICT William T. Brinkley (D)
311 West Lake Street
Madisonville, Kentucky 42431

11TH DISTRICT Gross C. Lindsay (D)
783 Woodspoint Drive
Henderson, Kentucky 42420

12TH DISTRICT Joe Head (D)
Route 1
Providence, Kentucky 42450

13TH DISTRICT Charles S. Wible (D)
2940 Tanglewood
Owensboro, Kentucky 42301

14TH DISTRICT Donald J. Blandford (D)
Route 1
Philpot, Kentucky 42366

15TH DISTRICT Eugene Doss (D)
701 Ryan Hill
Central City, Kentucky 42330

16TH DISTRICT Lewis Foster (D)
Route 2
Lewisburg, Kentucky 42256

17TH DISTRICT	Willard (Woody) Allen (R) Route 2, Box 123 Morgantown, Kentucky 42261
18TH DISTRICT	Mary Ann Tobin (D) Irvington Kentucky 40146
19TH DISTRICT	G. W. (Bill) Vincent (D) Route 1 Leitchfield, Kentucky 42254
20TH DISTRICT	Jody Richards (D) 1022 Ridgecrest Drive Bowling Green, Kentucky 42101
21ST DISTRICT	Buddy Adams (D) Route 3 Bowling Green, Kentucky 42101
22ND DISTRICT	Richard A. Turner (R) Route 4 Tompkinsville, Kentucky 42167
23RD DISTRICT	Bobby H. Richardson (D) Route 7, Highway 31E Glasgow, Kentucky 42141
24TH DISTRICT	Sam B. Thomas (D) Route 1, Old Calvary Road Lebanon, Kentucky 40033
25TH DISTRICT	Allene A. Craddock (D) 710 Woodland Road Elizabethtown, Kentucky 42701
26TH DISTRICT	Nick L. Pearl (D) 894 Mary Court Radcliff, Kentucky 40160
27TH DISTRICT	Archie N. Romines, Sr. (D) 13312 Tennis Boulevard Valley Station, Kentucky 40272
28TH DISTRICT	James R. Dunn (D) 5009 Maryman Road Pleasure Ridge Park, Kentucky 40258
29TH DISTRICT	Al Bennett (D) 3518 Blanton Lane Louisville, Kentucky 40214
30TH DISTRICT	Jon W. Ackerson (R) 7405 Cross Creek Court Louisville, Kentucky 40228
31ST DISTRICT	Mark D. O'Brien (D) 36 South Sheridan Road Louisville, Kentucky 40220

32ND DISTRICT Bruce Blythe, Jr. (R)
516 Altagate Road
Louisville, Kentucky 40206

33RD DISTRICT Bob Benson (D)
2937 White Plains Road
Louisville, Kentucky 40218

34TH DISTRICT Gerta Bendl (D)
2403 Newburg Road
Louisville, Kentucky 40205

35TH DISTRICT Carl A. Nett (D)
1268 Lydia Street
Louisville, Kentucky 40217

36TH DISTRICT Michael W. Wooden (D)
4540 Park Boulevard
Louisville, Kentucky 40209

37TH DISTRICT M. J. (Jerry) Kleier (D)
335 West Southside Court
Louisville, Kentucky 40214

38TH DISTRICT Dexter S. Wright (R)
5026 South 3rd Street
Louisville, Kentucky 40214

39TH DISTRICT Lawrence Ray Maynard (D)
1340 South Sixth Street
Louisville, Kentucky 40203

40TH DISTRICT George R. Siemens, Jr. (D)
2919 1/2 Dixie Highway
Louisville, Kentucky 40216

41ST DISTRICT Mae Street Kidd (D)
2308 West Chestnut
Louisville, Kentucky 40211

42ND DISTRICT Charlotte S. McGill (D)
3016 River Park Drive
Louisville, Kentucky 40211

43RD DISTRICT Norbert L. Blume (D)
4224 Northwestern Parkway
Louisville, Kentucky 40212

44TH DISTRICT James B. Yates (D)
2305 Thurman Drive
Shively, Kentucky 40216

45TH DISTRICT Dottie Priddy (D)
3702 South Park Road
Louisville, Kentucky 40229

46TH DISTRICT Robert F. Hughes (D)
7900 Gayeway Drive
Louisville, Kentucky 40219

47TH DISTRICT Edward L. Holloway (R)
10705 Sunderland Place
Middletown, Kentucky 40243

48TH DISTRICT Louis R. Guenthner (R)
2110 Dogoon Drive
Louisville, Kentucky 40223

49TH DISTRICT Thomas B. Givhan (D)
4506 East 44th Street
Shepherdsville, Kentucky 40165

50TH DISTRICT John Hurst (D)
Route 1
Bloomfield, Kentucky 40008

51ST DISTRICT Herman W. Rattliff (R)
Route 3
Campbellsville, Kentucky 42718

52ND DISTRICT Raymond Overstreet (R)
Riverside Estates, Box U
Liberty, Kentucky 42539

53RD DISTRICT Charles (Chuck) Hardwick (R)
Betsy, Kentucky 42606

54TH DISTRICT Joe Clarke (D)
420 Boone Trail
Danville, Kentucky 40422

55TH DISTRICT Forest (Aggie) Sale (D)
520 Beaumont Avenue
Harrodsburg, Kentucky 40330

56TH DISTRICT John V. Carpenter, Jr. (D)
Route 4, Rainbow Drive
Nicholasville, Kentucky 40356

57TH DISTRICT C. M. (Hank) Hancock (D)
514 Murray Street
Frankfort, Kentucky 40601

58TH DISTRICT David Gray Mason (D)
Route 1, Murberry Pike
Eminence, Kentucky 40019

59TH DISTRICT Robert A. Jones (D)
Lot 22, Farmington Lane
Box 203
Crestwood, Kentucky 40014

60TH DISTRICT William K. McBee (D)
500 Florence Pike
Burlington, Kentucky 41005

61ST DISTRICT Clay Crupper (D)
25 Wilron Drive
Dry Ridge, Kentucky 41035

62ND DISTRICT Mark Fitzgerald (D)
P.O. Box 313
Cynthiana, Kentucky 41031

63RD DISTRICT Louis DeFalaise (R)
33 West Maple
Ft. Mitchell, Kentucky 41011

64TH DISTRICT Phillip E. King (D)
Box 212, Senour Road
Ft. Mitchell, Kentucky 41017

65TH DISTRICT John J. Isler (D)
1813 Jefferson Avenue
Covington, Kentucky 41014

66TH DISTRICT Elmer C. Dietz (D)
514 Linden
Ludlow, Kentucky 41016

67TH DISTRICT Terry L. Mann (D)
19 Douglas Drive
Newport, Kentucky 41071

68TH DISTRICT William Donnermeyer (D)
333 Bonnie Leslie Avenue
Bellevue, Kentucky 41073

69Th DISTRICT Arthur L. Schmidt (R)
134 Winters Lane
Cold Spring, Kentucky 41076

70TH DISTRICT Dr. Mitchel B. Denham (D)
506 Forest Avenue
Maysville, Kentucky 41056

71ST DISTRICT Woodford (Woody) May (D)
Woodsbend, Kentucky 41472

72ND DISTRICT Jim LeMaster (D)
256 Swigert Avenue
Lexington, Kentucky 40507

73RD DISTRICT Paul W. Richardson (D)
72 Milwood
Winchester, Kentucky 40391

74TH DISTRICT Adrian Arnold (D)
Route 3, Aarons Run Road
Mt. Sterling, Kentucky 40353

75TH DISTRICT William Gordon Kenton (D)
343 Woodland Avenue
Lexington, Kentucky 40508

76TH DISTRICT Steven L. Beshear (D)
317 Mariemont Drive
Lexington, Kentucky 40505

77TH DISTRICT Glenna A. Bevins (D)
1709 Normandy Road
Lexington, Kentucky 40504

78TH DISTRICT
Larry J. Hopkins (R)
1870 Parkers Mill Road
Lexington, Kentucky 40504

79TH DISTRICT
Don W. Stephens (D)
1909 Blairmore Road
Lexington, Kentucky 40502

80TH DISTRICT
William Harold DeMarcus (R)
Route 2
Stanford, Kentucky 40484

81ST DISTRICT
Dwight Wells (D)
Route 7
Richmond, Kentucky 40475

82ND DISTRICT
Ernie Siler (R)
Siler Route, Box 52G
Williamsburg, Kentucky 40769

83RD DISTRICT
Lavey Floyd (R)
Poynter, Kentucky 42501

84TH DISTRICT
Charles P. (Doots) Muncy (R)
112 Maple
Irvine, Kentucky 40336

85TH DISTRICT
Albert Robinson (R)
Route 6, Box 60
London, Kentucky 40741

86TH DISTRICT
Jimmy White (D)
324 North Main Street
Barbourville, Kentucky 40906

87TH DISTRICT
George E. Stewart (D)
528 Kentucky Avenue
Pineville, Kentucky 40977

88TH DISTRICT
Glenn R. Freeman (D)
127 Lynn Street
Cumberland, Kentucky 40823

89TH DISTRICT
John Raymond Turner (D)
929 1/2 Highland Avenue
Jackson, Kentucky 41337

90TH DISTRICT
Clay Gay (R)
Box 990
Hyden, Kentucky 41749

91ST DISTRICT
Hoover Dawahare (D)
Hayes Street, Box 540
Whitesburg, Kentucky 41858

92ND DISTRICT
Sidney Adams (D)
Littcarr, Kentucky 41834

93RD DISTRICT
N. Clayton Little (D)
Box 404
Hartley, Kentucky 41532

94TH DISTRICT Herbert Deskins, Jr. (D)
Box 423
Pikeville, Kentucky 41501

95TH DISTRICT James (Jitter) Allen (D)
Rural Route 2
Martin, Kentucky 41649

96TH DISTRICT Jackie Ray Cooper (R)
311 Rowley Avenue
Vanceburg, Kentucky 41179

97TH DISTRICT W. D. (Doc) Blair (R)
1252 Stafford Avenue
Paintsville, Kentucky 41240

98TH DISTRICT Ronald R. Cyrus (D)
Route 1, E. K. Road
Greenup, Kentucky 41144

99TH DISTRICT Ray O. Brown (D)
Box 345
Sandy Hook, Kentucky 41171

100TH DISTRICT Charles Holbrook III (R)
1734 Dysard Hill
Ashland, Kentucky 41101

The following new member produced her Certificate of Election, appeared before the Presiding Officer and was administered her oath of office by Judge William Howerton of the Court of Appeals of Kentucky: Alice McNutt, McCracken.

The roll was called. All present except Representative R. A. Turner.

Representative Isler moved that absent members be granted leave of absence. Agreed.

Introduction of Bills and Resolutions

HR 3, by Representative B. Richardson.

HR 3, A RESOLUTION authorizing appointment of a committee to wait upon the Senate and the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That a committee of this House be appointed by the Speaker to wait upon the Senate and notify that body that this House is now organized and ready to proceed to the transaction of business, and that said committee shall, in conjunction with a like committee from the Senate, wait upon the Governor and inform him that the Extraordinary Session of 1976 of the General Assembly is now organized and ready to receive any communication he may care to deliver relative to those matters included in his call of this extraordinary session.

Representative B. Richardson moved the adoption of **HR 3.** Agreed.

The Speaker appointed the following Committee to wait upon the Governor: Representatives McNutt, DeMarcus, and Brown.

The Committee appointed to wait upon the Governor reported that the Governor was ready to address a Joint Session of the General Assembly.

Representative B. Richardson moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate. Agreed.

The Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative B. Richardson moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, assumed the Chair and called the Joint Session to order.

Representative B. Richardson moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

Prayer by the Reverend Herman M. Bowers, First Baptist Church, Frankfort.

The Committee of the House appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House to address the Joint Session appeared with the Governor.

Lieutenant Governor Thelma L. Stovall introduced the Honorable Julian M. Carroll, Governor of the Commonwealth of Kentucky.

Governor Carroll addressed the Joint Session of the General Assembly.

ADDRESS BY GOVERNOR JULIAN CARROLL
JOINT SESSION
KENTUCKY SENATE AND HOUSE OF REPRESENTATIVES
OPENING SPECIAL LEGISLATIVE SESSION
DECEMBER 1, 1976

Prior to the convening of the 1976 regular session of this body, it was generally agreed by representatives from all three branches of our state government that the full implementation of the judicial article ratified by the voters of Kentucky in the just-previously held general election, should be deferred for consideration by a special session of the general assembly.

I promised the members of the general assembly and representatives of the judiciary that I would call that special session late this year after the interim committees and the courts' planning office had completed their preparatory work required for a productive session of this law-making body.

That time has arrived. December 1, 1976, in the 200th year of our nation and in the 185th year of our commonwealth, will be an historic day in the constitutional history of the peoples of Kentucky.

While you are here pursuant to my call issued by authority of section 80 of our constitution, it seems to me that it is more accurate to say that we are here today at the mandate of the people of this great state.

Thus, if you today feel a heavy burden on your shoulders, you indeed have realized the importance of your personal participation in making history, not only for the citizens of our state living in this time, but for decades and probably centuries yet to pass.

Should you not feel that heavy burden, then those Kentuckians you have been elected to serve are without representation and all the peoples of our commonwealth will suffer by the loss of your responsible participation.

However, that burden is not yours alone, the judicial branch and executive branch must step forward and join you as responsible partners, probably not since 1792, the year in which our great commnonwealth was founded, has such a partnership been necessitated by a mandate of the peoples of this state. As we have paid tribute to those great Kentuckians who gave us the heritage which we today enjoy, let us with the same determination mold a statutory process which will be a tribute to the people of this state who have placed their trust in us.

All of us—whether we be members of the judicial, legislative, or executive branches—have had much to say about our hopes for the improvement of Kentucky's system of justice. We have our hopes and we also have our reservations, but the constitutional framework to remedy the present faults in our justice system has been mandated by our fellow Kentuckians. You can imagine all kinds of interpretations as to what they meant by their vote or what they did not understand about their vote, but our responsibility remains clear. We now have a difficult but important task which all of us must face responsibly and conclude with unparalleled determination.

We cannot and must not come today—whether we be members of the executive, legislative or judicial branches—as public servants seeking further election. We must come as elected public servants returning the confidence which our people have already placed in us.

Some of us come as elected public servants for two years, some for four years, and some for eight years. We must not shirk our burden because of any fear for our impending re-election, nor should we withdraw in the seeming security that another time has given us.

This is not a time for partisan political positions, statements or actions. The justice we all seek to achieve will be blind to partisan politics. Thus, the people of Kentucky can rightfully expect us to put our political aspirations aside while we pursue their collective interests.

How well we accomplish our task, how much common sense we apply, and the fiscal responsibility we practice in our deliberations during this special session, will be watched carefully by those who sent all of us here, as well as by those not yet convinced that this task is as worthwhile as it is threatening to many of our existing governmental structures.

Thus, whether we be members of the legislature, members of the judiciary, or members of the executive branch, we must come with a unity of purpose - that is to act singularly in the public's interest. We can disagree without being disagreeable, but we cannot stubbornly ignore our responsibility to the public.

Our mutual cooperation is imperative to accomplishing our task. The judicial article clearly recognizes certain responsibilities which each of us share and which require us to weigh the consequences of our decisions and make certain they allow for responsible action by another branch. We cannot isolate ourselves from the practical outcome of our demands, but must remember it is the public we seek to serve and not our own determinations.

I cannot and will not ask you to withhold your personal feelings nor to forget your reservations. I do not intend to. However, it is imperative that we pursue a consensus and enact that deliberate conclusion into law. It is logical that we put our reservations aside for a more appropriate day.

It is well known that I personally supported an elected district judge for each county. However, I fully recognize that the article, as written, effectively prohibits such a plan. The constitutional requirement that such a judge be an attorney and that he not practice law effectively precludes many counties from the opportunity to such an elected office. While one might rightfully contend that a qualified lawyer could be secured if the general assembly would provide a full-time salary, such action by the general assembly would be fiscally irresponsible as well as indefensible should you authorize a full-time salary for only minimal duties. The taxpayers are entitled to full-time work for full-time pay.

Under the judicial article the district court boundaries are identical to those of the circuit courts. The judicial article also requires that district judges run-at-large within the judicial districts. This effectively precludes guaranteeing every county a district judge. For example, the first judicial district consists of the counties of Ballard, Hickman, Fulton and Carlisle. Even if you authorize four district judges for that four-county district, there would be no guarantee that each of those counties would elect a district judge since all candidates would run-at-large in the four counties. Altogether, there are seven four-county districts, 14 three-county districts and 12 two-county districts in which my plan could not be guaranteed. As I conceded that my plan was not practical under the article as adopted, I urge you, the legislature and the judiciary, to make similar concessions should some of your positions, however desirable, prove to be impractical. Responsible compromise will be necessary from each of us.

However, you should authorize and fund an elected district judge in any county in this state or in every combination of counties that has a sufficient workload to support a full-time office.

In spite of what has been reported in the press, I have not made nor do I now make a recommendation to you on how many district judgeships you should authorize and fund. I have said and I repeat for your consideration today the common sense approach of authorizing a conservative number initially. I have never suggested and I do not suggest now that you fail to authorize a district judge for any county or district that can reasonably justify such a full-time position.

To put it another way I have never suggested and I do not now suggest that you remove a district judgeship from a county or district which has only one such position now proposed. I have suggested and I now suggest to you that in those counties where more than one district judge has been proposed that you closely examine the potential workload in such counties and authorize and fund only such positions as can be clearly shown to be required to carry the expected workload. If a position is questionable, I would suggest you do not now authorize and fund it but rather postpone such an expenditure until it can be clearly shown to be needed.

Should you mistakenly authorize and fund an excessive number of district judgeships in a particular district, I would suggest it will be too much to expect that such a position will be abolished in the future. We don't have a very good reputation in Kentucky for abolishing unneeded positions once authorized and funded and once someone has been elected to hold the same.

However, should you fail to authorize a sufficient number of district judgeships, I have full confidence that the supreme court will certify the need for additional positions and ask you to fund them.

I fully desire, and I will support, adequate funding for the judicial article.

However, I cannot and neither can you or the members of the judiciary ignore the many other human needs which exist in our state. We are presently responsible for the educational welfare of some 694,000 young students in our public elementary and secondary schools. We are responsible for the health care of more than 40,000 Kentuckians who are hospitalized throughout our state. Of course, I could continue such a listing for some time. It should be unnecessary because all of us know that we cannot blindly fund any service rendered by our state government without considering the responsibility and burden we carry for all Kentuckians who look to us to supply their vital services.

Should any member of the legislature, any member of the judiciary or any member of the executive wonder what I am seeking to accomplish, permit me to say it this way. I am sounding a strong note of fiscal caution. I am contending that we cannot finance a first-class justice system and be content with a second-class educational and health system in Kentucky.

When I came before you last January I said that the thrust of my administration would be to administer state government efficiently and responsibly, to apply common sense for the common good. To this end, I demanded that each executive agency adopt a zero base continuation budget approach in their requests for funding during this biennium—that each new dollar for any new program be fully explained, and substantiated to your satisfaction before any appropriation was approved. I am suggesting that you adopt the same approach and philosophy with respect to this new program and that you impose the same standard of justification upon the new court system.

I said to you in January, "to govern wisely is to plan carefully. To plan carefully, you and I must look ahead to the needs of Kentuckians and the problems likely to be faced by the commonwealth for many years to come."

Following that policy, we have already concentrated this year on improving our economy. This year we will concentrate on education, next year on welfare, and the last year on governmental organizations. However, we are presently planning in all of these areas so that we can take immediate advantage of any efficiency which results in savings or improves our ability to serve the public.

I am sharing these concerns for fiscal caution because as your governor I know all the demands being made on all of state government and I know the limited financial resources which we now have and will have in the future to meet those demands. Your executive branch is fully prepared to share that information with you so that you can make the hard decisions in balancing the demands for funds with the funds available for expenditure.

Your choices are hard ones.

1. You will have the obvious task of reducing the demands.

2. Then when you conclude your task on what needs must be funded, you must either reduce previous appropriations which you have made, examine the potential for unexpected revenues under our present tax structure, or increase taxes to provide new revenue.

I would like to respond to all three of those alternatives.

I will gladly assist you in evaluating what previous appropriations can be reduced. I must say that task will be extremely difficult and dangerous; difficult because your prior appropriations were necessary to provide essential services in each agency, and dangerous because you must be sure you spend only dollars in one year that you can depend on receiving in a following year.

At this time we have no valid information on which we can advise you that our general fund receipts will be more than we expected last January.

On the question of new taxes, my position is well known. I cannot and will not support any increase in taxes to the people of Kentucky. Should such legislation be enacted, and I seriously doubt that it will be, I would veto it.

As you come today, I would suggest that never before has a general assembly examined the subjects to be considered more exhaustively—nor been better informed on those subjects—than you are in this session. Your interim committee system has really proved its worth in preparation for this special session. I want to publicly compliment you for the diligent work which you have accomplished in contemplation of this extraordinary session.

It is also appropriate that I single out Senator Bill Sullivan for his dedicated leadership in providing oversight during the review process for the proposed legislation implementing the judicial article.

During your regular session, you were responsive to the immediate need for legislation implementing the top three tiers of the new judicial article, the supreme court, the court of appeals, and the circuit courts. Now, you must implement the district court system, enact legislation for the administration of the unified courts system, and provide for the effective and efficient operation of other local government offices affected by the judicial article.

The task before us is both difficult and complicated; it is demanding but not necessarily rewarding; it is historic and a break with the past, yet you must race with time to complete your task so that the system can be implemented. Other states have undertaken to bring their justice delivery system in step with the times, but they have done it more gradually. Many of you have been to other states and know, first hand, those states' experiences can attest better than I to the pitfalls that lie ahead of us should we fail to use caution in complying to the mandate given us at last year's ballot box.

I want also to comment on the vast amount of work which has been accomplished by the judiciary through its planning function and administrative office in preparation for this special session.

There have also been numerous other groups working diligently to provide information and recommendations for consideration by you in this session. The prosecutors, our county attorneys and commonwealth attorneys, our county officials and our city officials, as well as others, have spent considerable time in preparing recommendations essential for you to respond to all the question raised by implementation of the judicial article.

No one will deny that this courts implementation is going to be one of the most difficult and far-reaching tasks ever assumed by a Kentucky general assembly, our judiciary and our executive branch. The intended result of the people's vote a year ago last month is the improvement of justice delivery in Kentucky. With the investments of the kinds of time, energies and expertise that we have seen and have been a part of to now, I am hopeful but yet confident that the people of Kentucky will reflect on our effort with satisfaction when it is finished.

Now for a moment, allow me to turn to some of the other subjects which I have included for your consideration in the call for this special legislative session.

I am extremely pleased that our deep mine safety study commission was able, this summer, to be the forum for a meeting of the minds of labor, industry and the technical and regulatory fields on the subject of how to equitably legislate the need or improved safety and miner education. That subject is in my call.

While this legislation will be little confort to those families who lost loved ones in the Scotia mine disaster or even to any of the families whose loved ones have previously been killed in a deep mining accident, it hopefully will prevent or at least drastically reduce such needless deaths in the future.

Additionally, certain supreme court decisions this year in workmen's compensation cases have created sufficient concerns in the industrial and business community that resulting skyrocketing awards would drive some out of business, or at least out of the state.

We can and must, through legislation, deal with this problem to the satisfaction of both industry and labor, so that Kentucky's healthy economic climate will not be blighted, and so that workmen injured on the job will continue to receive fair compensation for their injuries.

As you know I have long supported capital punishment as a regretful but necessary means to protect the innocent lives of our people.

I believe that the people of Kentucky feel that way, too. Recent supreme court rulings have determined that Kentucky's capital punishment law does not meet its standards, so I am asking that you take action to conform our laws with those guidelines.

Meanwhile, the federal government is mandating that Jefferson County link its sewers into a single system and build sewers where none now exist. Current law would make the repayment for persons who must hook up to the county-wide system nearly impossible to handle. I am asking you, with substantial agreement by your colleagues from Jefferson County, to approve legislation that eases the repayment circumstance for all property owners, with some special relief for low and fixed income property owners, and for owners of large undeveloped tracts of land on which they face staggering sewer payments.

Those, ladies and gentlemen of the house and senate, are the so-called major subjects of legislation to be dealt with in the days ahead of us.

There are, in addition, several pieces of possibly less-noteworthy but important legislation suggested for your consideration.

There are some budgetary items requiring your attention that I have today transmitted to chairman Joe Clarke and the members of the house appropriations and revenue committee. That information will be made available to all of you.

I say in conclusion to the members of this general assembly which has my understanding and affection for the many years I served here, to the judiciary which, as a member of the bar, I serve and respect, and as governor, the present office to which I am dedicated—this is an important occasion in our lives and in Kentucky history.

Those who once held our positions of responsibility have today given us our challenge—"United We Stand, Divided We Fall."

We must for the people of Kentucky find unity in our purpose here and should we fail not only will we fall but our peoples now and Kentuckians yet to come will suffer for our failures.

Thus, our course, is clear. Let us launch our ship of state with unparalled determination to reach our destination.

Representative B. Richardson moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Introduction of Bills and Resolutions (continued)

HR 2, by Representative B. Richardson.

HR 2, A RESOLUTION relating to procedures governing the 1976 Extraordinary Session of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the officers elected by the House of Representatives for the Regular Session of 1976 be the same for the Extraordinary Session beginning December 1, 1976.

Section 2. That except as provided in Sections 3 and 4 of this resolution the Rules adopted by the House of Representatives for the Regular Session of 1976 be the same for the Extraordinary Session of 1976.

Section 3. That Rule 48 of the Rules of the House of Representatives be amended to read as follows:

The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least *one legislative day* [three calendar days] prior to their consideration the bills and resolutions to be considered by the committee at its next meeting *and no* [provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman. No] measure shall be considered except those posted. A list of the measures to be considered shall be filed with the Clerk at least *one legislative day* [three calendar days] prior to the meeting.

Section 4. That Rule 50 of the Rules of the House of Representatives be amended to read as follows:

Bills and resolutions may be introduced by filing them in the Clerk's office at any time that her office is open. Bills and resolutions introduced by filing them in the Clerk's office after the House has concluded Item 4, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The Clerk shall number bills in the order received, record their introduction, and transmit a copy immediately to the Committee on Committees for reference to committee. [No bill or resolution having the force of law, shall be introduced during the last ten (10) legislative days of the session. The last two legislative days shall be reserved by the House exclusively for the business of concurring in amended House bills.]

Representative B. Richardson moved the adoption of **HR 2.**

On the roll call the vote was yeas 79-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Hancock, Hardwick, Head, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 9-Ackerson, W. Allen, DeFalaise, DeMarcus, Gay, Guenthner, Holbrook, Holloway, Hopkins.

HR 2 was adopted.

Recess

Representative B. Richardson moved that the House recess for fifteen minutes for a meeting of the Committee on Committees.

On the roll call the vote was yeas 61-Ackerson, B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Clarke, Cooper, Cyrus, Dawahare, DeFalaise, Dietz, Donnermeyer, Dunn, Floyd, Foster, Givhan, Guenthner, Hardwick, Holbrook, Holloway, Hughes, Imes, Isler, Kenton, Kidd, King, Mann, Mason, May, McBee, McBride, McGill, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, P. Richardson, Sale, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, White, Wible, Wooden, Yates. Nays 7-J. Allen, Deskins, Doss, Fitzgerald, Hancock, Hurst, LeMaster.

The motion that the House recess was adopted.

At the appointed hour, the Speaker resumed the Chair and called the House to Order.

Introduction of Bills and Resolutions (continued)

HR 4, by Representative B. Richardson: A RESOLUTION inviting the pastors of Frankfort churches to open sessions of the House of Representatives with prayer during the 1976 Extraordinary Session.

HR 5, by Representative DeFalaise: A RESOLUTION requesting that the Board of Hairdressers and Cosmetologists recind regulation 201 KAR 12.065, Section 5, which requires that beauty and barber shops be separated from each other by soundproof partitions and that both have separate entrances.

HR 6, by Representative DeFalaise: A RESOLUTION petitioning the Office for Management and Budget of the federal government to designate Boone, Kenton, and Campbell counties in the Commonwealth of Kentucky as a Standard Metropolitan Statistical Area.

HR 7, by Representative Blume: A RESOLUTION urging the Jefferson County Board of Education and the Jefferson County Teachers Association to resolve their disagreements.

HB 1, by Representative Givhan, Brown, and Holbrook: AN ACT relating to district courts.

HB 2, by Representative Blume: AN ACT relating to health care malpractice claims.

HB 3, by Representative B. Richardson: AN ACT relating to municipal electric utilities.

HB 4, by Representative B. Richardson: AN ACT relating to revenue and taxation.

HB 5, by Representative B. Richardson: AN ACT relating to special local peace officers.

HB 6, by Representative Wells: AN ACT relating to descent and distribution.

HB 7, by Representatives DeMarcus, Rattliff, W. Allen, Blair, Brown, Cooper, Floyd, Gay, Guenthner, Hardwick, Holbrook, Holloway, Muncy, Overstreet, Schmidt, and Siler: AN ACT relating to district courts.

HB 8, by Representatives Givhan and Wible: AN ACT relating to Civil Actions.

HB 9, by Representative Benson: AN ACT relating to electronic voting systems.

HB 10, by Representative Lindsay: AN ACT relating to jails and jailers.

HB 11, by Representative Benson: AN ACT relating to elections.

HB 12, by Representative Lindsay: AN ACT relating to court clerks.

HB 13, by Representative B. Richardson: AN ACT relating to courts.

HB 14, by Representative Clapp: AN ACT relating to capital punishment.

HB 15, by Representative Kleier: AN ACT relating to health care for government employes.

HB 16, by Representative Wible: AN ACT relating to collection and distribution of revenue from district courts.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 4.**

Business Organizations and Professions: **HB 5, HR 5.**

Counties and Special Districts: **HB 10.**

Education: **HR 7.**

Elections and Constitutional Amendments: **HB 9, HB 11.**

Health and Welfare: **HB 2, HB 15.**

Judiciary—Courts: **HB 1, HB 7, HB 8, HB 12, HB 13, HB 16.**

Judiciary—Statutes: **HB 6, HB 14.**

Public Utilities and Transportation: **HB 3.**

State Government: **HR 4, HR 6.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 4.**

State Government: **HR 4, HR 6.**

Judiciary—Courts: **HB 1, HB 13, HB 8.**

Public Utilities and Transportation: **HB 3.**

Business Organizations and Professions: **HB 5.**

Motions, Petitions, and Communications

Representative B. Richardson announced the following Committee schedule for December 2, 1976.

Judiciary—Courts: 9:00-11:00 am., Room 307.

State Government: 11:00-12:00 noon, Room 305.

Public Utilities: 12:00-1:00 p.m., Room 9.

Business Organizations and Professions: 1:00 p.m., Room 305.

Representative B. Richardson announced the following times for convening of the House each day:

Monday—4:00 p.m.

Tuesday, Wednesday, Thursday—2:00 p.m.

Friday—10:00 a.m.

Representative B. Richardson announced a meeting of the Committee on Appropriations and Revenue on adjournment in Room 307.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, December 2, 1976.

On the roll call the vote was yeas 66-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Carpenter, Clapp, Clarke, Cooper, Crupper, Cyrus, DeFalaise, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Gay, Givhan, Hancock, Head, Holbrook, Holloway, Hughes, Isler, Kenton, Kidd, LeMaster, Mann, Mason, May, Maynard, McBee, McBride, McGill, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, Wible, Wooden, Yates. Nays 9-W. Allen, Deskins, Gray, Guenthner, Hardwick, Hopkins, Hurst, Imes, Priddy.

The motion to adjourn was adopted.

THURSDAY, DECEMBER 2, 1976

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Dr. Andrew E. Newcomer, First Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Crupper, Kidd, Maynard, Stewart, J. R. Turner, and R. A. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of December 1, 1976, be dispensed with the same approved. Agreed.

Introduction of Bills and Resolutions

HR 1, by Representatives DeFalaise, Dietz, and King: A RESOLUTION honoring the Lloyd Memorial High School football team.

HR 8, by Representative Hopkins and Bevins: A RESOLUTION honoring and commending Mrs. Marcia Sue Miller.

HR 9, by Representative B. Richardson: A RESOLUTION inviting the Chief Justice of the Supreme Court to address a Joint Session of the General Assembly.

HCR 10, by Representative DeFalaise: A CONCURRENT RESOLUTION relating to the scheduling of police officers as witnesses in district court.

HB 17, by Representatives Givhan and Wible: AN ACT relating to the disqualification of prosecuting attorneys.

HB 18, by Representatives Givhan and Wible: AN ACT relating to unprofessional conduct of attorneys and justices or judges of the Court of Justice.

HB 19, by Representative Givhan: AN ACT relating to speedy trials.

HB 20, by Representatives Wible and Pearl: AN ACT relating to circuit clerks.

HB 21, by Representatives Wible and Pearl: AN ACT relating to the disposition of traffic matters by the Court of Justice and governmental agencies affected thereby.

HB 22, by Representatives Wible and Pearl: AN ACT relating to the office of public defender.

HB 23, by Representatives Wible and Pearl: AN ACT relating to the court of justice.

Recess

Representative B. Richardson moved that the House recess for fifteen minutes for a meeting of the Committee on Committees. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Judiciary-Courts: **HB 17, HB 18, HB 19, HB 20, HB 21, HB 22, HB 23, HR 10.**

Report of Committees

The Committee on Committees reported the following changes in Committee assignments:

Representative Morris from the Committee on Cities to the Committee on State Government.

Representative McNutt assigned to the Committee on Cities and the Committee on Public Utilities and Transportation.

Representative Imes appointed Chairman of the Committee on State Government.

Representatives Richards and Jones appointed Vice Chairmen of the Committee on State Government.

Representative Clarke named to fill the vacancy on the Committee on Rules.

The Committee on State Government reported **HR 4** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 4, A RESOLUTION inviting the pastors of Frankfort churches to open sessions of the House of Representatives with prayer during the 1976 Extraordinary Session.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the Sergeant at Arms be directed to invite the pastors of the various Frankfort churches to attend the meetings of this House and open sessions thereof with prayer during the Extraordinary Session beginning December 1, 1976.

The Committee on Judiciary-Courts reported **HB 8,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 8, AN ACT relating to Civil Actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) Every circuit and district judge shall, when at all possible, issue a written judgment or order in all civil actions which have been submitted for final adjudication within ninety days from the date the action was taken under submission.

(2) Where a report, findings, or recommendations of a commissioner or hearing officer are required by statute or rule as a prerequisite to an order or judgment by the circuit or district court the same shall be filed within ninety (90) days of the conclusion of the trial or hearing at which the commissioner or hearing officer presided.

(3) Every circuit and district judge shall at the end of every month certify in writing to the Chief Justice of the Supreme Court all cases which have been submitted for final adjudication for longer than ninety (90) days and have not been adjudicated and certify in writing to the Chief Justice of the Supreme Court the reason for the delay.

(4) Any district or circuit judge who knowingly makes a material false statement in the written certification required by the provisions of this Act shall be guilty of Class B misdemeanor and conviction shall be a ground for removal by the judicial retirement and removal commission.

The Committee Amendment to **HB 8** is as follows:

Amend printed copy of House Bill 8 page 2, by deleting lines 1 through 6 and inserting in lieu thereof the following:

"(4) Any district or circuit judge who knowingly violates any of the provisions of this Act shall be subject to removal by the judicial retirement and removal commission."

The Committee on Public Utilities and Transportation reported **HB 3** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 3, AN ACT relating to municipal electric utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.047 is amended to read as follows:

(1) The rates charged for services by municipally owned electric utilities shall not be increased except after a public hearing following reasonable notice thereof.

(2) By January 1, 1978 the rates charged for services and the standards of services maintained by municipally owned *electric* utilities shall be the same for customers inside and outside the corporate limits.

The Committee on Business Organizations and Professions reported **HB 5**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 5, AN ACT relating to special local peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 61.360 IS RE-ENACTED TO READ AS FOLLOWS:

(1) The governor may appoint special local peace officers, for such time as he deems necessary, to preserve the peace and protect the property of any person from waste or destruction. Upon the application of an owner of property for such services, and upon payment of a fee of five dollars ($5.00) for each officer to be appointed, the governor shall immediately appoint the person recommended by the owner, if the person is eligible. No person shall be eligible for appointment under this section unless he has established to the satisfaction of the governor that he possesses the qualifications prescribed for nonelective peace officers by KRS 61.300. The governor may remove any officer so appointed at will or at the request of the owner of the property.

(2) The duties of the officer shall be confined to the premises of the property to be protected, except while in pursuit of a person fleeing from the property after committing an act of violence or destruction of the property. In that case, the officer may pursue the person and make arrest anywhere within this state. He may wear such badges and insignia as will plainly indicate to the public that he is a special local peace officer, but he shall not, in any event, wear any uniform, or any part thereof, of any public police officer; nor shall he in any way impersonate a public police officer or represent himself to any person or persons as being a public police officer; nor shall he perform any of the duties of a public police officer, except those specifically herein granted and at the places herein specifically designated.

(3) Application fees shall be placed in the state treasury and credited to a revolving fund for administrative expenses.

(4) Any person who violates any of the provisions of this section shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) or be imprisoned not less than five (5) days nor more than thirty (30) days, or both.

Section 2. KRS 61.928 is repealed.

Section 3. Whereas legislation enacted at the 1976 Regular Session of the General Assembly revokes the commissions of all special local peace officers effective January 1, 1977, which is an undesirable effect of that legislation, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor.

The Committee Amendment to **HB 5** is as follows:

Amend printed copy of House Bill 5 page 1, line 9, by deleting the word "shall" and substituting in lieu thereof the word "may".

Motions, Petitions, and Communications

Representative B. Richardson moved that the rules be suspended to act upon a Resolution. Agreed.

Representative B. Richardson moved the adoption of the following **HR 9:**

HR 9, A RESOLUTION inviting the Chief Justice of the Supreme Court to address a Joint Session of the General Assembly.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Chief Justice Scott Reed of the Supreme Court of the Commonwealth of Kentucky be and he hereby is invited to address a Joint Session of the General Assembly on Friday, December 3, 1976 at 10 a.m. (EST), on the State of the Judiciary, and the implementation of the Judicial Article, and budget ramification thereof.

Section 2. That a committee of the House of Representatives join a like committee of the Senate to wait upon the Chief Justice and escort him to said Joint Session.

HR 9 was adopted by voice vote.

Representative Hopkins moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Hopkins moved the adoption of the following **HR 8:**

HR 8, A RESOLUTION honoring and commending Mrs. Marcia Sue Miller.

WHEREAS, Mrs. Marcia Sue Miller of Lafayette High School has been selected Teacher of the Year in Kentucky; and

WHEREAS, this body deems highly appropriate the recognition and approbation due Mrs. Miller, which the honor bestowed upon her so richly deserves; and

WHEREAS, witness borne by dozens of her colleagues, and former students and their parents attests to her capability and competence;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Mrs. Marcia Sue Miller of Lafayette High School, Lexington, Kentucky, be and she is hereby commended and congratulated upon her selection as Teacher of the Year in Kentucky.

Section 2. That when the House of Representatives does adjourn this day, December 2, 1976, it does so in honor and tribute to Mrs. Marcia Sue Miller.

Section 3. That the Clerk be directed to transmit a copy of this resolution to Mrs. Marcia Sue Miller.

HR 8 was adopted by voice vote.

Senate Message

Announcing passage of **SCR 8.**

Motions, Petitions, and Communications (continued)

Representative DeFalaise moved that the rules be suspended to act upon a Resolution. Agreed.

Representative DeFalaise moved the adoption of the following **HR 1:**

HR 1, A RESOLUTION honoring the Lloyd Memorial High School football team.

WHEREAS, Lloyd Memorial High School of Erlanger, Kentucky has covered itself with glory and brought high honor and acclaim to the entire Northern Kentucky area through its football team's victory in capturing the coveted State Triple A Championship; and

WHEREAS, Coach Doughtery and the whole team had a 14-0 record and have victoriously gone forward in the best tradition of Kentucky and American sportsmanship;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby congratulate and honor the football team, Coach Dougherty and the entire student body of Lloyd Memorial High School for its success in winning the State Triple A Championship.

Section 2. That the Clerk of the House of Representatives is hereby directed to forward copies of this resolution to Charles R. Fugitt, Principal of Lloyd High School and James Dougherty, head football coach.

HR 1 was adopted by voice vote.

Announcements

Representative Burnette requested that his name be added as a co-sponsor of **HB 14.**

Representative Clarke announced a meeting of the Committee on Appropriations and Revenue on Adjournment, December 3, 1976.

Adjournment

Representative B. Richardson moved that the House adjourn until 9:45 a.m. on Friday, December 3, 1976.

On the roll call the vote was yeas 65-B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Burnette, Carpenter, Clapp, Clarke, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Head, Holbrook, Hopkins, Hughes, Isler, Kenton, King, Kleier, LeMaster, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, Wible, Wright, Yates. Nays 10-W. Allen, Deskins, Fitzgerald, Gray, Guenthner, Hardwick, Holloway, Hurst, Imes, Priddy.

The motion to adjourn was adopted.

FRIDAY, DECEMBER 3, 1976

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Dr. Andrew E. Newcomer, First Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Crupper, Gay, Little, Maynard, Nett, Stewart, J. R. Turner, and R. A. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of December 2, 1976, be dispensed with and the same approved. Agreed.

Representative B. Richardson moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate for the purpose of hearing an address by Chief Justice Scott Reed of the Supreme Court of Kentucky. Agreed.

Representative B. Richardson moved that the House and Senate resolve into Joint Session. Agreed.

The Speaker appointed the following Committee to inform the Chief Justice of the readiness of the General Assembly: Representative Brinkley, Robinson, and Mann.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Joseph W. Prather, President Pro Tempore of the Senate, assumed the Chair and called the Joint Session to order.

Representative B. Richardson moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

The Committee of the House appointed to join with a like Committee of the Senate to wait upon the Chief Justice and escort him to the House to address the Joint Session appeared with the Chief Justice.

The President Pro Tempore of the Senate introduced Chief Justice Scott Reed of the Supreme Court of Kentucky.

Chief Justice Reed addressed the Joint Session of the General Assembly.

I am gratified to be requested, on this historic occasion, to address the General Assembly on the state of judiciary. Constitutional amendments in Kentucky have a poor record of success. This most recent effort at reforming the courts is a culmination of three prior attempts. During the 1950's and again in the 1960's citizen groups and members of the bench and bar had attempted judicial reform. All previous attempts met with failure.

Change in a judicial system comes slowly, as it should. As envisioned by our forefathers the judicial branch of government was to have a unique role in our form of government. The legislative branch enacts the legislation and appropriates monies. The executive branch carries out the legislative mandates. The judiciary has the ultimate responsibility of assuring the people that we are indeed a government of laws and not men. Over 200,000 Kentuckians voted for judicial reform. The people have spoken and they want a different and a much improved court system. They want full-time, legally trained judges; they want more efficient courts; they want more accountability in their judicial system.

This General Assembly enacted a major segment of the unified court system during the regular session earlier this year.

Let me briefly comment on the progress made to date with the changes mandated by the people.

The old Court of Appeals became the Supreme Court. My court has been working all year on Rules of Practice and Procedure to expedite the appellate process and reduce the costs to the litigant. During this year, over 700 decisions have been rendered to this date, including 129 during the months of June, July and August.

A new Court of Appeals has been created. Fourteen new appellate judges have begun to actively work on the appellate backlog. Hearings before that court have taken place in over fifteen cities of this Commonwealth. This court's interest in providing easy access for the public and reducing the cost of litigation are very positive steps to improve our courts in this state.

Statutes creating Judicial Nominating Commissions have resulted in seventeen judges being appointed to office. This new method of screening applicants for judicial office is a progressive step toward insuring a more qualified and competent judiciary.

A Judicial Retirement and Removal Commission has been created. The members of this Commission have recently been named and in the very near future it will begin the very difficult but essential task of reviewing complaints concerning judicial conduct.

The issues confronting this special session are among the most important matters this august body has ever considered. The reform and change of an entire branch of government is not simple. This task requires the analysis of the previous system, its faults and its good points; a very careful reading of the entire Judicial Article; and most importantly what is best for the citizens of the Commonwealth. This is not a time to protect special interests. The very core of our form of government hangs in balance. The enactment of the Judicial Article and the creation of the new courts is an expression by the people that courts must change to respond to the needs of our present society.

I will take advantage of this opportunity to clear up some misconceptions about the court reforms which were mandated by the people and to explain some of the implications of the budget we have submitted for your consideration.

The Department of Finance and Administration issued a report that fines, costs and fees imposed by trial courts will result in upwards of 26 millions yearly against a projected annualized cost of less than 24.5 millions for these courts.

The budget for the entire Court of Justice, considering all funds in the executive budget, will amount to a mere one percent of the total funds appropriated by this body. Or, when you consider exclusively the general fund appropriation, the courts will receive only 2% of the total budget. Concern for fiscal responsbility is shared by the courts as it is by members of legislative and executive branches. We have not attempted to pad or inflate this budget but to present you, for the first time in recent memory, with a line item budget explaining where every dollar is to be spent. You can readily measure the merits of the requests. If there is an index available which indicates the manner in which all departments and agencies of the government are financed in proportion to their need, we would, as I am sure you would be, interested in seeing how our budget compares to all others.

So let me assure you first of all that the court system's budget will not bankrupt the Commonwealth nor will it in any conceivable way cause or even suggest a tax increase.

Secondly, it should be noted once and for all that the courts have taken no position on whether or not court-imposed fines, forfeitures and costs should be given to local governments or retained in the General Fund. The disposition of these monies is a matter for the General Assembly.

A narrative description was included in the budget provided to you and members of my staff will be available to meet with your committees to further answer specific questions. Therefore, my remarks about the implications of the budget will be of a more general nature.

A budget, as you know, is a program expressed in financial terms. Our budget is the second phase of a mandated program of judicial reform expressed in dollars. Knowledge of the Judicial Article is necessary for understanding the judicial budget request.

Eighty-four percent of the requested 21.3 millions proposed for expenditure in 1977-78 is to provide circuit court support, and to establish and likewise support, the new district courts which are created by the Constitution.

Acting in behalf of the court I have recommended establishment of 123 district judges at $30,000 each and 55 trial commissioners. The budget is built around those recommended figures. We believe these numbers to be the least required and the salary to be that which is necessary in order to attract qualified persons to serve as district judges. The actual recurring costs per judge need to be clarified. The budget submitted by me calls for a cost per judge of $30,000 in salary. 17% standard state benefits or $5,000 and operating costs of $5,000. There is no specific request for secretaries for district judges. It is anticipated that office space will be provided by the counties. No other recurring costs are envisioned. Rumors to the contrary, the average cost per judge will be approximately $40,000 at most. The final decision on these matters, of course, rests with the members of this body.

The remaining 14% of the requested budget is for other items relating to court reform. For example funds amounting to less than 4% of the total are requested for circuit judges' secretaries. This is necessary because the budget passed in the least regular session omitted funding for them beyond this year.

We asked the Executive Branch's Bureau of Computer Services to assist us in budgeting for our data processing needs. The bureau's proposal is less than 2% of the total.

Other related needs constitute a maximum 3% of the budget and cover items from printing of new forms to funds for court interpreters for the disabled and handicapped.

In preparing the budget we have shown the component parts separately in order to facilitate understanding of it. It is, however, a closely interrelated program and significant changes in one part of it should be made with concern for total effect.

I assure you the judicial branch of government is interested in cooperating with the General Assembly in every way constitutionally permissible. We feel, as I am sure you do, the enormous responsibility placed upon us by the people. The people want judicial improvements and we must comply with their demand for change.

This is the opportunity of a lifetime to launch a judicial system that the Commonwealth can be proud of and which can become a model for other states. Let us not lose that opportunity nor cloud our vision with short-range proposals.

Representative B. Richardson moved the reading of a Resolution. Agreed.

Representative B. Richardson moved the adoption of the following **HCR 11:**

HCR 11, by Representative B. Richardson.

HCR 11, A CONCURRENT RESOLUTION honoring the University of Kentucky football team and Coach Fran Curci.

WHEREAS, the University of Kentucky football team and Coach Fran Curci and his staff have brought acclaim and honor upon this Commonwealth during the recent football season; and

WHEREAS, this outstanding athletic group distinguished itself with the finest record at the university in over 20 years; and

WHEREAS, the famed "Beer Barrel" now rests in its rightful home, having been wrested from the clutches of the University of Tennessee in a thrilling 7-0 victory; and

WHEREAS, these fine young men now will bear theirs and Kentucky's blue and white colors and fortunes in the 1976 Peach Bowl, the first time a Kentucky football team has been so honored in 25 years;

NOW, THEREFORE,

Be it resolved by the House of Representatives and the Senate of the General Assembly of the Commonwealth of Kentucky, concurring in Joint Session:

Section 1. That the General Assembly of Kentucky does hereby bestow all due honor and recognition to the University of Kentucky football team and to Coach Fran Curci and his staff, and does extend to them its heartfelt best wishes for success in the 1976 Peach Bowl.

Section 2. That the University of Kentucky football team and Coach Curci and his staff be extended the privilege of the floor on Friday, December 3, 1976.

HCR 11 was adopted by voice vote.

Representative B. Richardson moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Introduction of Bills and Resolutions

HB 24, by Representative Donnermeyer, Mann, Arnold, Blandford, Deskins, Dietz, Fitzgerald, Isler, May, Richards, Schmidt, Vincent, and Wright: AN ACT relating to the county judge/executive.

HB 25, by Representative Schmidt: AN ACT proposing an admendment to the Constitution of Kentucky relating to the judicial branch of government.

HB 26, by Representatives Wright, O'Brien, Ackerson, Hughes, Kleier, McGill, Nett, Priddy, Romines, Wooden, and Yates: An ACT relating to elections.

HB 27, by Representatives Isler, Dietz, DeFalaise, King, Mann, and McBee: AN ACT relating to pensions.

HR 12, by Representatives Doss and Brinkley: A RESOLUTION requesting the Governor to meet with representatives of coal operators and miners in the Western Kentucky coalfields for the purpose of setting a reward for the arrest and conviction of person or persons responsible for bomb threats or the placing of bombs in underground mines.

Recess

Representative B. Richardson moved that the House recess for fifteen minutes for a meeting of the Committee on Committees. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HR 12.**

Cities: **HB 27.**

Counties and Special Districts: **HB 24.**

Elections and Constitutional Amendments: **HB 25, HB 26.**

Calendar

HR 4, HB 8, HB 3, and **HB 5** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

Representative Wible moved that **HB 16** be taken from the Committee on Judiciary-Courts and reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Clarke announced a meeting of the Committee on Appropriations and Revenue on adjournment, Room 305.

Representative Bruce announced a meeting on Tuesday, December 7, 1976, at 11:00 a.m., Room 316, for discussion of no-fault insurance.

Adjournment

Representative B. Richardson moved that the House adjourn until 4:00 p.m., Monday, December 6, 1976.

On the roll call the vote was yeas 62-B. Adams, A. S. Adams, J. Allen, Arnold, Bennett, Benson, Bevins, Blythe, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Donnermeyer, Dunn, Floyd, Foster, Givhan, Head, Holbrook, Hopkins, Hughes, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, Morris, Muncy, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, White, Wible, Wooden. Nays 8-W. Allen, Deskins, Doss, Gray, Hardwick, Hurst, Isler, Priddy.

The motion to adjourn was adopted.

MONDAY, DECEMBER 6, 1976

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. Williamson Brown, Jr., Church of the Ascension, Frankfort.

The roll was called. All present except Representatives Benson, Blume, and Crupper.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of December 3, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 28, by Representative B. Richardson: AN ACT relating to workmen's compensation.

HR 13, by Representative Bruce: A RESOLUTION recommending the Honorable Thomas O. Harris for consideration for the Cabinet Post of Secretary of Agriculture.

HB 29, by Representative B. Richardson: AN ACT relating to district courts.

Senate Message

Announcing passage of **SB 2, SJR 4, SJR 5, SB 5,** and **SB 8.**

Introduction of Bills and Resolutions (continued)

HR 14, by Representatives Freeman, White, and Siler: A RESOLUTION honoring the 1976 Corbin High School Red Hounds for winning the State Class AA football championship of 1976.

Recess

Representative B. Richardson moved that the House recess for fifteen minutes for a meeting of the Committee on Committees. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **SB 8, SB 5.**

Appropriations and Revenue: **SR 4.**

Counties and Special Districts: **SR 5.**

Judiciary—Courts: **HB 29**

Labor and Industry: **HB 28**

State Government: **SB 2**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary—Courts: **HB 12, HB 17, HB 18, HB 19, HB 20, HB 21, HB 22,** HB 23, **HB 29, HR 10.**

Labor and Industry: **HB 28.**

Counties and Special Districts: **HB 10, HB 24.**

Judiciary—Statutes: **HB 6, HB 14.**

Report of Committees

The committee on Rules reported **HB 3, HB 5** with Committee Amendment attached thereto, and **HR 4** have been posted for passage in Orders of the Day, December 6, 1976.

Orders of the Day

HB 3 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **HB 3** be passed.

On the roll call the vote was yeas 80-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Craddock, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Nett, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 6-W. Allen, Cooper, DeFalaise, DeMarcus, Denham, Little.

HB 3 was passed and the title agreed.

Representative B. Richardson moved that the vote by which **HB 3** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 5** be deferred and that it retain its position in Orders of the Day. Agreed.

HR 4 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of **HR 4. HR 4** was adopted by voice vote.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (continued)

HB 30, by Representative B. Richardson: AN ACT relating to appropriations for the operation, maintenance, support and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

HB 31, by Representatives Fitzgerald, Deskins, W. Allen, Givhan, and Hurst: AN ACT relating to the dispositions of traffic matters by the Court of Justice and governmental agencies affected thereby.

HB 32, by Representative Wible: AN ACT relating to district court.

Motions, Petitions, and Communications

Representative Bruce moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Bruce moved the adoption of the following **HR 13:**

HR 13, A RESOLUTION recommending the Honorable Thomas O. Harris for consideration for the Cabinet Post of Secretary of Agriculture.

WHEREAS, it is the belief of the members of the House of Representatives that the Secretary of Agriculture of the United States should be a person with great and extensive knowledge and understanding of both the rural and urban areas; and

WHEREAS, the Secretary must guide and shape the agricultural policies of the nation; and

WHEREAS, it is the opinion of this body that only a person with an extensive farm background who has actually engaged in such work would understand the farmers love of this good earth; and

WHEREAS, the Secretary must also be a person of vision and scope to understand and cope with the needs, not only of this nation, but foreign nations as well, to fully and completely understand that America is truly the breadbasket of the world; and

WHEREAS, the Honorable Thomas O. Harris duly elected to the constitutional office of Commissioner of Agriculture in the great Commonwealth of Kentucky; and

WHEREAS, the Honorable Thomas O. Harris has been a lifelong farmer as was his father before him and as his sons are now; and

WHEREAS, the Honorable Thomas O. Harris, through his actions in the Senate of the Commonwealth of Kentucky, his actions in deeds while serving as Secretary of Natural Resources and Environmental Protection, his efforts during his tenure as Commissioner of Agriculture for the great Commonwealth of Kentucky.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives of the Commonwealth of Kentucky does heartily recommend to President-Elect James Carter that the Honorable Thomas O. Harris be considered for the Cabinet Post of Secretary of Agriculture.

Section 2. That a copy of this resolution be forwarded to the Honorable James Carter, President-Elect of these great United States of America.

HR 13 was adopted by voice vote.

Representative Bruce requested that a roll call be taken to show co-sponsors of **HR 13.**

The following members voted to co-sponsor **HR 13:** Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blair, Blandford, Boatwright, Brinkley, Brown, Bruce, Brunette, Carpenter, Clarke, Cooper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hughes, Imes, Isler, Jones, Kenton, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright.

Representative Givhan moved that the rules be suspended for the purpose of taking a roll call to show co-sponsors of **HB 1.** Agreed.

The following members voted to co-sponsor **HB 1:** W. Allen, Brown, Cyrus, Dawahare, Deskins, Freeman, Gay, Hardwick, Robinson, R. Turner.

Representative Freeman requested that the rules be suspended to act upon a Resolution. Agreed.

Representative Freeman moved the adoption of the following **HR 14:**

HR 14, A RESOLUTION honoring the 1976 Corbin High School Red Hounds for winning the State Class AA football championship of 1976.

WHEREAS, the Corbin Red Hounds, under Head Coach Archie Powers, had an 11-1 season record; and

WHEREAS, the Red Hounds won the championship game by a score of 6-0; and

WHEREAS the Red Hounds team set a school record this season by intercepting 30 passes; and

WHEREAS, the Red Hounds offensive team gained a total of 2,286 rushing yards and 682 yards passing, for a total of 2,968, to their opponents' 1,605 yards; and

WHEREAS, the Red Hounds scored a season total of 265 points and allowed opponents to score only 86 points during the season; and

WHEREAS, the Red Hounds' performance enhanced Corbin's long tradition of athletic excellence;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the following individuals be honored for their victory in the State Class AA football championship: Head Coach Archie Powers; Assistant Coaches Tom Faulkner, Larry Adams, Clyde Burchette, Willard Farris, and John Jones; Managers Mark McCann and Brian Hart; and the football team: Kenny Gilbert, Mike Wilson, Jack Sears, Alvin Kelsay, Dan Chase, Jim Bonza, Brien Freeman, Kevin Brock, Brent Freeman, Tom Horvath, Joey House, Ronnie Watkins, Mark Hewlett, Rodger Jones, John Spicer, Steve Bird, Jim Parks, Barry Simms, Jeff Miller, Pete Wagner, Steve Hart, John Igo, David Ballou, Todd Balkner, R. C. Thomas, Burley Foley, Bill Cumming, Mark Chandler, Allen Rose, Eddie Rose, Kevin Pace, Steve Baird, Robbie Grove, John Francioni, Rusty Onkst, Jeff Tipton, and Wes Tipton.

Section 2. That the clerk of the House be directed to send copies of this resolution to the principal, coaches, and team managers of Corbin High School.

HR 14 was adopted by voice vote.

Representative B. Richardson moved that the rules be suspended to allow committee Chairmen to meet and for Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Appropriations and Revenue: **SR 4.**

Agriculture and Natural Resources: **SB 8, SB 5.**

State Government: **SB 2.**

Senate Message

Announcing passage of **SB 3.**

Announcements

The Committee Chairmen announced the following meetings:

Committee on Labor and Industry, 8:00-9:00 A.M., Room 307, December 7, 1976.

Joint Senate and House Committee on Judiciary—Courts, 10:00 A.M., Room 307, December 7, 1976.

Committee on Counties and Special Districts, 10:00 A.M., Room 9, December 7, 1976.

Budget Hearing, 9:00 A.M., Senate Chamber, December 7, 1976.

Committee on State Government will not meet on December 7, 1976.

Committee on Agriculture and Natural Resources, 9:00 A.M., December 7, 1976.

Committee on Banking and Insurance, 11:00 A.M., Room 316, December 7, 1976.

Representative Dawahare announced a meeting of "East and West", Room 305, on adjournment.

Committee on State Government, 9:30 A.M., Room 305, Decmeber 7, 1976.

Committee on Education will not meet this week as scheduled.

Representative Burnette requested that he be recorded as voting "yea" on **HR 4.**

Representative Gray filed Floor Amendment No. 1 to **HB 5.**

Representatives Guenthner and Imes requested that their names be added as co-sponsors of **HB 14.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 P.M., Tuesday, December 7, 1976.

On the roll call the vote was yeas 55-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blair, Blandford, Brinkley, Brown, Carpenter, Clapp, Clarke, Craddock, Cyrus, Denham, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Hancock, Head, Holbrook, Hopkins, Hughes, Hurst, Jones, Kenton, King, Kleier, Mason, May, McBride, McGill, Muncy, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siler, Stephens, Tobin, Vincent, White, Wright. Nays 10-W. Allen, Deskins, Fitzgerald, Gray, Guenthner, Hardwick, Holloway, Imes, LeMaster, McBee.

The motion to adjourn was adopted.

TUESDAY, DECEMBER 7, 1976

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. Williamson Brown, Jr., Church of the Ascension, Frankfort.

The roll was called. All present except Representatives Crupper, Maynard, Stewart, and J. R. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of December 6, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 33, by Representative Benson: AN ACT relating to electronic voting systems.

HB 34, by Representative Benson: AN ACT relating to the distribution of revenue generated from fees, fines, and forfeitures related to parking.

HB 35, by Representative B. Richardson: AN ACT relating to crime and punishment.

Report of Committees

The Committee on Agriculture and Natural Resources reported **SB 8,** with Committee Amendments attached thereto, and **SB 5** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 8, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:
The General Assembly hereby finds and declares the following:

(1) The highest priority and concern of the Commonwealth must be the health and safety of the coal industry's most valuable resource, the miner.

(2) The continued prosperity of the coal industry is of primary importance to the state.

(3) A high priority must be given to increasing the productivity and competitiveness of the mines in this state.

(4) An inordinate number of miners are killed or injured during the first few months of their experience in a mine and upon acquiring new work assignments in a mine.

(5) These injuries result in the loss of life and serious injury to miners and are an impediment to the future growth of the state's coal industry.

(6) Mining is a technical occupation with various specialties requiring individualized training and education.

(7) Injuries can be reduced through proper miner training, education and certification.

SECTION 2. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be assigned to work duties by an operator as a laborer or supervisor working underground for the purpose of mining coal unless the person holds a valid certificate of competency and qualification or a valid permit as trainee issued in accordance with this Act.

(2) A permit as trainee miner shall be issued by the commissioner to any person who has completed a program of education and training of a minimum of forty (40) hours. This education and training program shall be determined and established by the board of miner training, education and certification, as provided in Section 5 of this Act.

(3) Trainee miners shall work within the sight and sound of a certified miner.

(4) Any miner holding a certificate of competency and qualification may have one (1) person working with him and under his direction as a trainee miner. Any person certified as a mine foreman, assistant mine foreman, or fire boss may have no more than five (5) persons working with him and under his supervision or direction as trainee miner for the purpose of learning and being instructed in the duties of underground coal mining.

(5) A certificate of competency and qualification as an underground miner shall be issued by the commissioner to any person who has in total a minimum of ninety (90) working days' experience as a trainee miner and demonstrated competence as a miner by the successful completion of an examination given by the commissioner or his representative in a manner and places to be determined by the board of miner training, education and certification.

(6) All examinations for the certification of a miner shall be of a practical nature and shall determine the competency and qualification of the applicant to engage in the mining of coal with reasonable safety to himself and his fellow employees. The examination may be given orally if the miner is unable to read or comprehend a written examination.

(7) Examinations shall be held in the district where the applicant resides or is to be employed after such public notice and at such time as the commissioner finds necessary to enable all applicants for certificates to have an opportunity to qualify for certification.

(8) Notice of the time and place of the examination for the certification of miners shall be given to management at the mine, to the miners or their representatives at the mine, and notice shall be posted at the places in the vicinity of the mine where notices to employees are posted.

(9) If the commissioner or his representative finds that an applicant is not qualified and competent, he shall so notify the applicant not more than ten (10) days after the date of examination.

(10) Any applicant aggrieved by an action of the commissioner in failing or refusing to issue a certificate of qualification and competency may, within ten (10) days of notice of the action complained of, appeal to the commissioner who shall within ten (10) days of the appeal give the applicant a hearing and either affirm the action or issue the certificate to the applicant.

(11) In the event the applicant is still aggrieved by the action of the commissioner, he may appeal to the board which shall hold a hearing on the matter within thirty (30) days. The applicant may be represented by counsel, produce evidence and witnesses on his behalf, and examine such evidence and documents as may be produced against him. The board may also be represented by counsel. The board shall not be bound by the technical rules of evidence, but the order of the board shall be based upon competent evidence. The board's order shall be in writing and shall be accompanied by findings of fact and conclusions of law. A copy of the order shall be served upon the applicant by personal service, by certified mail, return receipt requested, or by registered mail immediately upon entry by the board.

(12) The applicant may appeal from the order of the board by filing in the circuit court in the judicial circuit in which he resides a petition for appeal and a copy of the order of the board within thirty (30) days of the date of entry of the order. The petition for appeal shall set forth with particularity the grounds upon which the appeal is taken. The applicant shall cause a copy of the petition for appeal to be served upon the chairman of the board.

(13) Within thirty (30) days after service of the notice of appeal, the board shall file in the circuit court a certified copy of the entire record of its proceedings under review. The circuit court shall set the case for hearing without a jury and dispose of the appeal de novo. Any aggrieved party may secure a review of any adverse judgment in the circuit court by appeal to the court of appeals.

SECTION 3. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) All persons possessing valid certificates as mine inspectors, electrical inspectors, mine safety instructors, assistant mine foreman, mine foreman, fire boss, shotfirer and other mining specialties as established by the board, or miner shall be eligible to work at any time as miners, provided they fulfill the annual requirements for retraining and reeducation as provided in Section 5 of this Act.

(2) Supervisory, clerical, and technically-trained employees of the mine operator whose work contributes only indirectly to mine operations shall not be required to possess a miner's certificate of competency and qualification.

SECTION 4. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) The board of miner training, education, and certification established by Section 5 of this Act shall establish the date on which the training program for underground miners as required by this Act is sufficiently available for the work force in all of the state.

(2) Any person presenting valid evidence to the commissioner of having worked a minimum of ninety (90) working days in a mine prior to the date determined by the board under subsection (1) of this section shall be issued a certificate of competency and qualification as an underground miner.

(3) The provisions of Section 2 of this Act shall not be administered until training and certification are available in all of the state.

SECTION 5. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the board of miner training, education and certification.

(2) The board shall be made up of six (6) persons, two (2) of whom shall be from the underground coal industry in the eastern Kentucky coalfield and two (2) of whom shall be from the underground coal industry in the western Kentucky coalfield. Each of the two (2) coalfields shall be represented by one (1) person representing the miners and one (1) person representing the mine operators. The governor in making his appointments shall balance the membership of the board so as to reflect as nearly as possible the composition of the industry as regards the size of operations and the representation of the miners. The commissioner of the department shall serve as chairman. The sixth member of the board shall be the director of the division of miner training, education and certification of the department, who shall be a nonvoting member. The board shall recommend to the governor a candidate for the position of director of the division.

(3) Members of the board shall be appointed by the governor within three (3) months of the effective date of this Act.

(4) Excluding the commissioner and the director of the division of miner training, education and certification, one (1) member of the board shall be appointed initially for a period of one (1) year; one (1) member for a period of two (2) years; one (1) member for a period of three (3) years; and one (1) member for a period of four (4) years. After the initial appointments, members shall be appointed to a full four (4)-year term. Members of the board may be reappointed at the expiration of their previous appointment at the pleasure of the governor. Members shall continue to serve until a successor is appointed and qualified.

(5) As soon as practicable after the members of the board have been appointed, the commissioner shall call an organizational meeting to implement the provisions of this section.

(6) Persons appointed to the board to represent the miners shall be employed in non-supervisory positions at mines in this state and shall have a minimum of five (5) years' underground experience in the industry and a mine foreman's certificate. Persons representing the mine operators shall be employed by coal companies operating in the state and shall have a minimum of five (5) years' experience in safety or training in the coal mining industry and a mine foreman's certificate. The director shall have a minimum of five (5) years' of practical underground mining experience.

(7) Whenever a vacancy on the board occurs, appointments shall be made in the manner prescribed in this section. The vacancy shall be filled by the governor within thirty (30) days from the date the vacancy occurs.

(8) A quorum of the board shall be three (3) voting members; the board may act officially by a majority of those members who are present except that no action shall be taken without at least three (3) affirmative votes. When necessary for the commissioner to be absent, he is empowered to name an alternate to serve as chairman.

(9) Each miner-member and operator-member of the board shall receive one hundred dollars ($100) per diem while actually engaged in the performance of the work of the board and shall receive mileage at the rate provided by the state's travel regulation for each mile actually traveled from the home of the member to the place of the meeting and returning therefrom, which shall be paid out of the state treasury upon proper requisition approved by the commissioner.

(10) The commissioner shall keep and maintain records of board meetings and activities of the board, as well as current records on all certified persons which shall be maintained by computer for ready access.

(11) The board shall establish criteria and standards for a program of education and training to be required of prospective miners of underground coal mines, miners of underground coal mines, and of all certified persons. Such education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of Section 2 of this Act, the requirements of the federal government for the training of miners for new work assignments, and at least eight (8) hours of annual retraining and reeducation for all certified persons.

(12) Beginning with the first full calendar year after the effective date established by the board in accordance with Section 4 of this Act and during each calendar year thereafter, each certified miner shall receive at least eight (8) hours of retraining and reeducation.

(13) Each underground coal mine operator shall annually certify to the department the dates on which the annual retraining and reeducation sessions were conducted and the names and corresponding social security numbers of those persons receiving the retraining and reeducation.

(14) Retraining and reeducation sessions shall be conducted at such times and in such numbers as to reasonably assure each certified miner an opportunity to attend.

(15) Willful failure of a certified miner to attend at least eight (8) hours of annual retraining and reeducation shall constitute grounds for revocation, suspension, or probation of the certificate.

(16) Operators shall pay all certified persons their regular wages and benefits while receiving the annual retraining and reeducation and the training for new work assignments.

(17) Prior to issuing standards, the board shall conduct public hearings after allowing at least thirty (30) days' public notice at which the parties who may be affected by the board's actions may be heard.

(18) The board may conduct hearings and oversight activities as may be required to ensure the full implementation of its programs and standards.

(19) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of Section 2 of this Act or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements set by the board, provided that the training and education meet the minimum requirements of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall be empowered to promulgate such reasonable regulations as are necessary to establish a program to implement the provisions of this Act according to the criteria and standards established by the board. Such program shall include, but not be limited to, implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.

(2) The commissioner is authorized and directed to utilize state mine inspectors, mine safety instructors, the state mine foreman examiner, private and public institutions of education, and such other qualified persons as may be available to him in implementing the program of instruction and examination.

(3) The commissioner may make such recommendations or supply such information to the board as he may deem appropriate. The commissioner is authorized and directed to utilize such state and federal moneys and personnel as may be available to the department for educational and training purposes in the implementation of the provisions of this Act.

(4) All training and education required by this Act shall be conducted in the district where the miner resides or is employed and may be conducted in classrooms, on the job, or in simulated mines.

SECTION 7. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) No person shall detonate explosives within a mine unless that person successfully has completed a training program and passed a test administered by the commissioner or his representative. Such a test shall include at a minimum a determination of the person's ability to test for mine gases and to safely detonate explosives in an underground coal mine.

(2) The commissioner shall issue a shotfirer's certificate to the person upon successfully passing the test.

(3) Any person presenting valid evidence to the commissioner of having worked as a shotfirer prior to the effective date of this Act shall be issued a shotfirer's certificate. The board shall determine when the training program for shotfirers is sufficiently available to the work force in the state and thereafter shall establish the effective date after which the requirements of this section shall apply to all persons detonating explosives in underground coal mines.

SECTION 8. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) Mine superintendents directly involved in the production of coal shall hold a mine foreman certificate.

(2) Any person already employed as a mine superintendent on the effective date of this Act shall be permitted to take the mine foreman examination, regardless of the number of years of coal mining experience.

SECTION 9. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) An individual is a qualified or certified person, within the meaning of this chapter, to perform electrical work, other than work on energized surface, high voltage lines, if:

(a) He has been qualified or certified as a coal mine electrician by the department; or

(b) He has at least one (1) year of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a non-coal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and has satisfactorily completed the coal mine electrical training program administered or approved by the department; or

(c) He has at least one (1) year of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a non-coal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and he attains a satisfactory grade on each of the series of five (5) written tests administered by the department and required in subsection (2) of this section.

(2) The series of five (5) written tests shall include the following categories:
(a) Direct current theory and application;
(b) Alternating current theory and application;
(c) Electric equipment and circuits;
(d) Permissibility of electric equipment; and
(e) Requirements of both federal and state laws.

(3) A score of at least eighty (80) percent on each of the five (5) written tests will be deemed to be a satisfactory grade. Recognition shall be given to practical experience in that one (1) percentage point shall be added to an individual's score in each test for each additional year of experience beyond the one (1) year minimum requirement specified in subsection (1)(c) of this section; however, in no case shall an individual be given more than five (5) percentage points for such practical experience.

(4) An individual may, within thirty (30) days from the date on which he received notification from the department of his test scores, repeat those on which he received an unsatisfactory score. If further retesting is necessary after this initial repetition, a minimum of thirty (30) days from the date of receipt of notification of the initial retest scores shall elapse prior to such further retesting.

(5) An individual qualified or certified in accordance with this section shall, in order to retain qualification or certification, satisfactorily complete a retraining program annually.

Section 10. KRS 351.110 is amended to read as follows:

(1) The *board of miner training, education, and certification* [board of examiners] shall not admit any applicant *for mine inspector, electrical inspector, mine safety instructor, mine foreman, assistant mine foreman, or fire boss* to take an examination given by it until the applicant has presented to the examiner at the time of registration for the examination a U.S. postal money order or certified check in the amount of *twenty-five (25)* [ten (10)] dollars. The money order shall be made payable to the state treasurer, Frankfort, Kentucky.

(2) All money paid to the state treasurer for licenses and fees required by this chapter shall be for the sole use of the department and shall be in addition to any monies appropriated by the general assembly for the use of the department.

(3) [(2)] The board may refuse to examine any applicant who cannot readily understand the written English language or cannot express himself intelligently in English, or who is obviously intoxicated.

Section 11. KRS 351.120 is amended to read as follows:

(1) The *commissioner* [board of examiners] shall issue a certificate to each person who possesses the qualifications required by law for mine inspector, electrical inspector, mine safety instructor, assistant mine foreman, mine foreman, [or] fire boss, *shotfirer and other mining specialties as established by the board, or miner* who has passed the examination given by direction of the board for that position [and meets the requirements of subsection (6) of this section].

(2) The certificate shall be in such form as the commissioner prescribes, shall be signed by the *commissioner* [members of the board of examiners], and shall show that the holder has passed the required examination and possesses the qualifications required by law for mine inspector, electrical inspector, mine safety instructor, assistant mine foreman, mine foreman, [or] fire boss, *shotfirer and other mining specialties as established by the board, or miner* and is authorized to act as such.

(3) Certificates issued to mine foremen, assistant mine foremen, and fire bosses shall be classified as follows:

(a) Mine foreman certificates, authorizing the holder to act as foreman for all classes of coal or clay mines;

(b) Assistant mine foreman certificates, authorizing the holder to act as assistant foreman. Upon the completion of five (5) years' mining experience evidenced by acceptable affidavits, the holder may apply to the board for a mine foreman's certificate;

(c) Fire boss certificates, authorizing the holder to act as fire boss or mine examiner in any mine.

(4) Any mine foreman or assistant mine foreman may act as fire boss or mine examiner, and any regularly employed fire boss may act in an emergency as a mine foreman or assistant mine foreman. This shall not apply to persons holding a second class mine foreman certificate issued before June 16, 1972.

(5) The class of mine foreman's certificate awarded shall be determined by the *board* [board of examiners] according to the experience of the applicant.

(6) No certificate shall be granted to any person who does not present to the *board* [board of examiners] satisfactory evidence, in the form of affidavits made by well known and responsible persons in the locality from which he came, that the applicant is a man of sobriety and good moral character, and that he has had the required practical experience in *underground* coal or clay mines, or to any person who is not either a bona fide resident of this state or employed at *an underground* [a] mine in this state. *A data sheet must be filed by each applicant showing places of employment, beginning month and year and ending month and year employed by each company and list jobs performed, showing at least the number of required years. Affidavit*

and data sheet forms will be furnished by the department. A degree in mining engineering from a recognized institution of learning may be taken as the equivalent of two (2) years of mining experience. *Persons desiring to use their mining engineering degree for two (2) years' experience credit toward either the assistant mine foreman or mine foreman certificate shall file a certified transcript of their grades and proof of having received their degree prior to the examination.* A minimum of five (5) years' underground experience is required of applicants for mine foreman certificates and a minimum of three (3) years' underground experience is required of applicants for assistant mine foremen and fire boss certificates.

(7) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to KRS chapter 351 or 352, or any order or decision issued under KRS chapter 351 or 352 shall, upon conviction, be punished by a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) or by imprisonment for not more than six (6) months, or both.

(8) [(7)] Persons possessing certificates of qualifications to act as mine inspector, mine foreman, assistant mine foreman or fire boss prior to June 16, 1972, are not affected by this section.

(9) [(8)] When approved by the *commissioner* [department], any person holding a mine foreman's certificate issued by any other state may act in the capacity of mine foreman in any mine in this state until the next regular mine foreman's examination held by the department, but not to exceed a maximum of ninety (90) days.

(10) [(9)] A member of the supervisory personnel shall be present at the working section except in cases of emergencies at all times employes under his supervision are at the working section on coal-producing shifts.

Section 12. KRS 352.390 is amended to read as follows:

The *board shall* [board of examiners may] revoke, *suspend, or probate* [the] certificates [of a mine foreman, assistant mine foreman or fire boss] if it is established in the judgment of the board that the holder has become unworthy to hold the certificate by reason of violation of law, intemperate habits, incapacity, abuse of authority, willful failure to comply with the instructions of the mine inspector to obey the mining laws, or for other just cause. The certificate holder against whom charges are made may appear before the board and defend against the charges, and shall have *thirty (30)* [five] days' notice in writing of the charges previous to the hearing. *The same procedure provided in subsections (11), (12), and (13) of Section 2 of this Act shall apply to the certificate holder.*

Section 13. KRS 351.090 is amended to read as follows:

(1) The governor shall appoint an adequate number of mine inspectors to insure at least *two (2)* [three (3)] inspections annually, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the state *and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of those underground coal mines where conditions or management policy dictate that more inspections are needed to insure the safety of miners.* One or more of the appointees may be designated as electrical mine inspectors. The governor shall also appoint an adequate number of inspectors of mine weights and mine safety instructors. The term of office of each mine inspector, each electrical inspector, each inspector of mine weights and each mine safety instructor shall be during the period of capable, efficient service and good behavior.

(2) All mine inspectors, electrical inspectors, mine safety instructors, and inspectors of mine weights shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least *five (5)* [ten (10)] years' experience in coal mines, at least two (2) of which must have been in mines in this state. *Senior mine inspectors shall have ten (10) years' experience in coal mines, at least two (2) of which must have been in mines in this state.*

(3) No person shall be appointed to the office of mine inspector, electrical inspector, or mine safety instructor until he has passed a satisfactory examination before the *board* [board of examiners]. The commissioner may recommend to the governor applicants for mine inspector, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training and experience to be the most competent of the applicants.

(4) Mine inspectors, electrical inspectors, mine safety instructors, and inspectors of mine weights shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.

(5) No reimbursement for traveling expenses shall be made except on an itemized accounting for such expenses submitted by inspectors and safety instructors who shall verify upon oath that such expenses were incurred in the discharge of their official duties.

(6) Each mine inspector, electrical inspector, mine safety instructor, and inspector of mine weights shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the secretary of state.

(7) Each mine inspector, electrical inspector, mine safety instructor, and inspector of mine weights shall give bond with surety approved by the governor.

SECTION 14. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

The department shall provide first-aid training incorporating all training required by the state's approved program for emergency medical technicians which is applicable for underground coal mines. Each candidate for certification as a mine foreman shall complete the department's first-aid course of instruction and shall pass an examination on the course as a prerequisite for certification. The course of instruction and examination shall have prior approval of the board.

SECTION 15. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

Each underground coal mine operator shall submit documentation to the commissioner that a trained mine rescue team is within sixty (60) minutes' driving time of each of his mines. In the event that a trained mine rescue team is not available as required, the department shall provide a trained mine rescue team which would be available to the mine within sixty (60) minutes' driving time.

SECTION 16. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) Upon petition by the operator or the representative of miners, the commissioner may modify the application of any mandatory safety standard to a mine if the commissioner determines that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard, or that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. Upon receipt of such petition, the commissioner shall give notice to the operator or the representative of miners in the affected mine, as appropriate, and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of such operator or representative or other interested party, to enable the operator and the representative of miners in such mine or other interested party to present information relating to the modification of such standard.

(2) The commissioner shall issue a decision incorporating his findings of fact therein, and shall send a copy thereof to the operator or the representative of the miners, as appropriate. Before granting any exception to a mandatory safety standard, the findings of the commissioner or his authorized representative shall be made available to the representative of the miners at the affected coal mine.

Section 17. KRS 351.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Approved" means a device, apparatus, equipment, machinery or practice approved by the commissioner of the department of mines and minerals;

(b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(c) "Commercial mine" means any coal or clay mine from which coal or clay is mined for sale, commercial use or exchange. This term shall in no instance be construed to include a mine where coal or clay is produced for own use;

(d) "Commissioner" means commissioner of the department of mines and minerals;

(e) "Department" means the department of mines and minerals;

(f) "Drift" means an opening through the strata, with opening grades such as to permit coal to be hauled by animals or mechanical traction power, and capable of being used for the purpose of ventilation, drainage, ingress, egress and other purposes in connection with the mining of coal;

(g) "Excavations and workings" includes all the excavated portions of a mine, whether abandoned or being worked, all underground portions of a mine, whether abandoned or being worked, all underground workings, shafts, slopes, tunnels, ways and openings, whether completed or in the course of being sunk or driven, and all roads, appliances, machinery and material connected therewith below the surface;

(h) "Fire boss" (often referred to as mine examiner) means a person designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(i) "Gassy mine" means any mine in which there is a record of methane having been ignited, or has been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (.25%) or more has been found not less than twelve (12) inches from the roof, face or rib, using approved methane testers or detectors or by analysis, provided, nevertheless, that on and after June 19, 1976, all mines shall be classified as gassy or gaseous;

(j) "Mine" means any open pit or any underground workings from which coal or clay is produced for sale, exchange or commercial use, and all shafts, slopes, drifts or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with such workings.

Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered a separate mine;

(k) "Mine foreman" means the certified person who the operator or superintendent places in charge of the workings of the mine and of the persons employed therein;

(l) "Open-pit mine" shall include open excavations, prospect openings, and open-cut workings including auger mines for the extraction of coal or clay;

(m) "Operator" means an individual, firm or corporation operating a coal or clay mine or any part thereof;

(n) "Permissible" means any equipment, device, or explosive that has been approved as permissible by the United States bureau of mines *or the mining enforcement and safety administration* and meets all requirements, restrictions, exceptions, limitations, and conditions attached to such classification by the bureau;

(o) "Pure intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen nor more than one-half of one percent (.5%) of carbon dioxide, nor any dangerous quantities of flammable gas nor any harmful amounts of poisonous gas or dust;

(p) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible or pillared workings;

(q) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal or clay, for the purpose of ventilation or drainage, or for hoisting men, coal, clay or materials;

(r) "Slope" means an inclined opening used for the same purpose as a shaft;

(s) "Superintendent" means the person who, on behalf of the operator, has immediate supervision of one or more mines;

(t) "Supervisory personnel" shall mean a person or persons properly certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein.

(2) Except as the context otherwise requires, this chapter applies only to commercial coal and clay mines.

(3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 18. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

(1) Inspecting mines and aiding under the direction of the commissioner in carrying out and enforcing the provisions of the law relating to the inspection of mines;

(2) Training officials and workmen in and about the mines in first aid and mine rescue methods;

(3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;

(4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;

(5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;

(6) Inspecting each mine in his district at least once every *six (6)* [four (4)] months, or more often if practicable and if funds permit, and whenever any danger to the workmen may exist, making a personal examination of the interior of each mine with respect to ventilation, drainage, *roof control,* [timbering,] blasting, electricity, *escapeways,* and general security, and also a personal examination of the outside facilities of the mine; and in those gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected; and

(7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal and clay.

Section 19. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means a device, apparatus, equipment, machinery or practice approved by the commissioner of the department of mines and minerals;

(d) "Approved safety lamp" means any bonneted lamp that bears the approval plate of the federal bureau of mines *or the mining enforcement and safety administration* and is approved by the department of mines and minerals of this state;

(e) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(f) "Commercial mine" means any coal or clay mine from which coal or clay is mined for sale, commercial use or exchange. This term shall in no instance be construed to include a mine where coal or clay is produced for own use;

(g) "Commissioner" means commissioner of the department of mines and minerals;

(h) "Department" means the department of mines and minerals;

(i) "Drift" means an opening through the strata, with opening grades such as to permit coal to be hauled by animals or mechanical traction power, and capable of being used for the purpose of ventilation, drainage, ingress, egress and other purposes in connection with the mining of coal;

(j) "Excavations and workings" includes all the excavated portions of a mine, whether abandoned or being worked, all underground workings, shafts, slopes, tunnels, ways and openings, whether completed or in the course of being sunk or driven, and all roads, appliances, machinery and material connected therewith below the surface;

(k) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(l) "Fire boss" (often referred to as mine examiner) means a person designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(m) "Gassy mine" means any mine in which there is a record of methane having been ignited, or has been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (.25%) or more has been found not less than twelve (12) inches from the roof, face or rib, using approved methane testers or detectors or by analysis, *provided, nevertheless, that on and after June 19, 1976, all mines shall be classified as gassy or gaseous*;

(n) "High voltage" means any voltage greater than one thousand (1,000) volts;

(o) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated;

(p) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(q) "Low voltage" means up to and including six hundred sixty (660) volts;

(r) "Medium voltage" means voltages from six hundred sixty (660) to one thousand (1,000) volts;

(s) "Mine" means any open pit or any underground workings from which coal or clay is produced for sale, exchange or commercial use, and all shafts, slopes, drifts or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with such workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered a separate mine;

(t) "Mine foreman" means the certified person who the operator or superintendent places in charge of the workings of the mine and *of* [or] persons employed therein;

(u) "Open-pit mine" shall include open excavations, prospect openings and open-cut workings including auger mines for the extraction of coal or clay;

(v) "Operator" means an individual, firm or corporation operating a coal or clay mine or any part thereof;

(w) "Permissible" means any equipment, device, or explosive that has been approved as permissible by the United States bureau of mines *or the mining enforcement and safety administration* and meets all requirements, restrictions, exceptions, limitations, and conditions attached to such classification by the bureau;

(x) "Punch mining" means workings that are driven directly into the seam without any cross entries;

(y) "Pure intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19 1/2%) oxygen nor more than one-half of one percent (.5%) of carbon dioxide, nor any dangerous quantities of flammable gas nor any harmful amounts of poisonous gas or dust;

(z) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible or pillared workings;

(aa) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal or clay, for the purpose of ventilation or drainage, or for hoisting men, coal, clay or materials;

(bb) "Slope" means an inclined opening used for the same purpose as a shaft;

(cc) "Superintendent" means the person who, on behalf of the operator, has immediate supervision of one or more mines;

(dd) "Supervisory personnel" shall mean a person or persons properly certified under the provisions of

KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the person employed therein;

(ee) [(dd)] "Tipple or dumping point" means the tipple or structure where coal or clay is dumped or unloaded from the mine car into railroad cars, trucks, wagons or other means of conveyance;

(ff) [(ee)] "Working face" means any place in a coal or clay mine in which work of extracting coal or clay from its natural deposit in the earth is performed during the mining cycle;

(gg) [(ff)] "Working place" means the area of coal or clay mine inby the last open crosscut;

(hh) [(gg)] "Working section" means all areas of a coal or clay mine from the loading point to and including the working faces.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010.

Section 20. KRS 352.020 is amended to read as follows:

(1) The ventilation of all underground coal or clay mines shall be produced by means of mechanically operated fans located outside the mine in fireproof housing and offset at least fifteen (15) feet to one side or above the opening, protected by explosion doors or weak walls and arranged so that ventilating current may be reversed if necessary. The fan shall be installed so as to prevent recirculation of mine air. *The* [In gassy mines the] main fan shall be operated from a power circuit independent from the mine circuit. If inside auxiliary fans are required to ventilate working places the commissioner must first approve the installation.

(2) The operator, superintendent or foreman of every coal or clay mine worked by shaft, slope or drift shall provide and maintain for every mine adequate ventilation. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair *or* [of] sets of entries shall be not less than nine thousand (9000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces from which coal is being cut, mined or loaded in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand (3000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand (9000) cubic feet of air per minute if at least nine thousand (9000) cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting any flammable or harmful gases. All active underground working places in a mine shall be ventilated by a current of air containing not less than nineteen and one-half percent (19-1/2%) of oxygen, not more than one-half percent (.5%) of carbon dioxide, and no harmful quantities of other noxious or poisonous gases.

(3) *All mines* [Any gassy mine or one operating under the water table] shall maintain at least nine thousand (9000) cubic feet of air per minute at the points mentioned in subsection (2) of this section. The inspector shall have the authority to require additional air in any mine when he deems it necessary for the safety of the employes.

(4) When the air from a split has passed through and has ventilated all the working places in an air split of a mine it shall then be designated as return air.

(5) As working places advance, breakthroughs for air shall be made not more than ninety (90) feet apart, except that where longwall or modern systems of mining are used the commissioner may approve a greater distance between breakthroughs or the method of ventilating such longwall or modern systems of mining. If any breakthroughs between intake and return airways are not required for the passage of air, they shall be closed with stoppings. All permanent stoppings shall be substantially built with suitable incombustible or fire resistant material subject to the approval of the mine inspector so as to keep the working places well ventilated. All brattice cloth (jute, or any substitute) and ventilation tubing shall be flame resistant. Doors on the main haulways shall be avoided [in gassy mines] where practicable, and overcasts, built of concrete or other suitable material and of ample strength, shall be adopted. Where doors are used they shall be built in a substantial manner, and shall be hung so as to close automatically when unobstructed.

(6) In a mine where methane can be found to an extent of one percent (1%) or more on the return of any one (1) split, the inspector, with the approval of the commissioner may require the mine to be ventilated by the exhaust system, requiring the haulage roads and all trolley and feed wires to be located on the intake air and the electrical system to be so arranged that no wires carrying electrical current shall be on return air. A period of not more than ninety (90) days from date of notification shall be allowed to make the changes required.

Section 21. KRS 352.050 is amended to read as follows:

(1) After June 16, 1972, no machinery powered by an internal combustion engine shall be placed in use in underground workings unless such equipment is rated "permissible" by the United States bureau of mines *or the mining enforcement and safety administration* for underground use and the use of the machinery is approved by the commissioner of the department of mines and minerals.

(2) No steam locomotive shall be used in any mine where men are actually employed in the extraction of coal, but this shall not prevent the operation of a steam locomotive through any tunnel haulway and part of a mine which is not in actual operation and producing coal.

(3) No operator, superintendent or mine foreman shall provide an animal stable inside any mine [, unless it is approved in writing by the commissioner].

(4) Mining equipment being transported or trammed underground, where energized trolley wires or trolley feeder wires are present, other than ordinary sectional movement, shall be transported or trammed by qualified personnel under the supervision of a certified foreman. When such equipment is being transported or trammed, no person, except those persons directly engaged in moving such equipment, shall be permitted to be inby the equipment in the ventilating split that is passing over such equipment. To avoid accidental contact with power lines, face equipment shall be insulated and assemblies removed, if necessary, so as to provide clearance.

Section 22. KRS 352.060 is amended to read as follows:

The following rules shall govern in the rock-dusting of mines:

(1) All [dry] mines, or parts of mines, or sections thereof, shall be rock-dusted if conditions are found to be dusty or hazardous, after proper inspection. In event such conditions are found to exist then the commissioner or his *authorized* [accredited] representative shall require the necessary rock-dusting to make the mine, part of mine or section safe.

(2) In all mines, accumulations of fine dry coal dust shall be removed from the mine, and all operating sections kept thoroughly watered or rock-dusted, or the dust allayed by other methods approved by the commissioner, but in every mine, or in any part or section thereof, rock-dusting shall be applied to maintain at all times a minimum percentage of sixty-five percent (65%) of noncombustible matter to within forty (40) feet of the faces, including last open crosscuts, and under certain special conditions the department may require that places be rock-dusted to the faces, and that additional rock-dust must be added.

Section 23. KRS 352.210 is amended to read as follows:

No person shall knowingly injure any shaft, lamp, instrument, air course or brattice, obstruct or throw open airways, disturb any part of the machinery or appliances, open a door used for directing ventilation without closing it afterwards, enter any part of a mine against caution, disobey any order given in carrying out any of the provisions of KRS Chapter 351 or 352, do any act endangering the life or health of any person employed in the mine or endangering the security of the mine. *No person shall* [or] enter or be *on* [about] any mine *property* while intoxicated or under the influence of alcohol *or a controlled substance. No alcoholic beverage or controlled substance shall be permitted in or about any mine; provided, however, this shall not apply to private vehicles driven to and from the mine.*

Section 24. KRS 352.230 is amended to read as follows:

(1) After June 16, 1972, [in gassy mines] all electrical equipment purchased for face use *in* underground *mines* shall be permissible type. *The commissioner or his authorized representative shall reject any modification to mining equipment which would endanger the health or safety of employes.*

(2) No person shall be placed in charge of electrical face equipment in any mine unless he is a qualified person, capable of determining the safety of the roof, face and ribs of the working places and detecting the presence of explosive gas where necessary. Operators of electrical face equipment [in a gassy mine] shall undergo an examination to determine their fitness to detect explosive gas before they are permitted to have charge of electric face equipment, and shall have minimum of ninety (90) days of actual mining experience. *Safety* [At gassy mines safety] committeemen, shotfirers, and others whose duty may require them to make examination for gas shall undergo and pass such examination or possess a mine foreman's certificate or fire boss certificate before using a flame-safety lamp underground. The examination shall be given by the mine inspector; blank forms therefor to be furnished by the department. A copy shall be retained on file at the mine office and the original shall be sent to the department fully made out and signed by the applicant and approved by the mine inspector.

(3) *No* [In any gassy mine no] electric face equipment shall be brought within the last breakthrough next to the working face until the equipment operator has made an inspection for explosive gas using a flame-safety lamp or other approved device or instrument in the place where such equipment is to work, unless the examination is then made by some other competent person authorized and appointed for that purpose by the mine foreman. If any explosive gas is found in the place the electric equipment shall not be taken in until gas is removed.

(4) While the electric equipment is operating at the face, an examination for gas must be made at not more than twenty (20) minute intervals. If gas is found in excess of one percent (1%) the power shall be disconnected from the equipment and left disconnected until the gas is removed and the place reported safe by a certified official.

(5) Headlights shall be installed and maintained in a permissible and working order on all mobile and face equipment at all times such equipment is in operation.

(6) Headlights shall be mounted to provide maximum illumination where it will be most effective and shall be protected from damage by guarding or locations.

Section 25. KRS 352.241 is amended to read as follows:

(1) Explosives or detonators carried anywhere underground by any person shall be in containers constructed substantially of nonconductive material, maintained in good condition and kept closed.

(2) When explosives or detonators are transported underground in cars moved by means of a locomotive or rope, or in shuttle cars, they shall be in substantial covered cars or in special substantial covered containers used specifically for transporting detonators or explosives;

(a) The bodies and covers of such cars and containers shall be constructed or lined with nonconductive material;

(b) If explosives and detonators are hauled in the same explosives car or in the same special container, they shall be separated by at least a four-inch substantially fastened hardwood partition or the equivalent;

(c) Explosives, detonators, or other explosive items shall not be transported on the same trip with men;

(d) When explosives or detonators are transported in special cars or containers in cars, they shall be hauled in special trips not connected to any other trip; provided, however, that this does not prohibit the use of such additional cars as needed to lower a rope trip, or to haul supplies including timbers; and provided further that materials so transported shall not project above the top of the car. Exposed highly flammable materials such as hay, oil, or grease shall not be hauled on the same trip with explosives;

(e) Explosives or detonators shall not be hauled into or out of a mine within five (5) minutes preceding or following a man trip or any other trip.

(3) Explosives and detonators shall be transported underground by belt only under the following conditions:

(a) In the original and unopened case, in special closed cases constructed of nonconductive material, or in suitable individual containers;

(b) Clearance requirements shall be the same as those for transporting men on belts;

(c) Suitable loading and unloading stations shall be provided;

(d) Stop controls shall be provided at loading and unloading points, and an attendant shall supervise the loading and unloading of explosives and detonators.

(4) Neither explosives nor detonators shall be transported on flight or shaking conveyors, scrapers, mechanical loading machines, locomotives, cutting machines, drill trucks, or any self-propelled mobile equipment; provided, however, that this does not prohibit the transportation of explosives or detonators in special substantial covered containers as used in subsection (2) of this section in shuttle cars or in equipment designed especially to transport such explosives or detonators.

(5) When supplies of explosives and detonators for use in one or more sections are stored underground, they shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, located at least twenty-five (25) feet from roadways and power wires, and in a reasonably dry, well-rock-dusted location protected from falls of roof. In pitching beds, where it is not possible to comply with the location requirement, such boxes shall be placed in niches cut into the solid coal or rock.

(6) When explosives or detonators are stored in the section, they shall be kept preferably in separate boxes or magazines not less than five (5) feet apart; if kept in the same box or magazine, they shall be separated by at least a four-inch substantially fastened hardwood partition or the equivalent. Not more than a forty-eight (48) hour supply of explosives or detonators shall be stored underground in such boxes or magazines.

(7) Explosives and detonators stored near the working faces shall be in separate closed containers, and shall be in a location out of line of blast not less than fifty (50) feet from the face and fifteen (15) feet from any pipeline, powerline, rail or conveyor; except that if kept in niches in the rib, the distance from pipeline, powerline, rail or conveyor shall be at least fifteen (15) feet. Such explosives and detonators, when stored, shall be separated by a distance of at least ten (10) feet.

(8) Explosives and detonators shall be kept in their containers until immediately before use at the working faces.

(9) Only nonmetallic tools shall be used for opening wooden explosives containers. Tools or other materials shall not be stored with explosives or detonators.

(10) All explosives used underground in underground mines except in sinking shafts and slopes from the surface shall be of the permissible type, specifically designed and manufactured for underground use, and shall be used as follows:

(a) Fired only with electric detonators of proper strength;

(b) Fired with permissible shot-firing units, unless firing is done from the surface when all men are out of the mine;

(c) Where the coal or clay is cut, shots shall not be fired if the blast hole is drilled beyond the limits of the cut;

(d) Boreholes shall be cleaned, and they shall be checked to see that they are placed properly and are of correct depth, in relation to the cut, before being charged;

(e) All blasting charges shall have a burden of at least eighteen (18) inches in all directions if the height of the seam permits;

(f) Boreholes shall be stemmed with at least twenty-four (24) inches of incombustible material, or at least one-half (1/2) of the length of the hole shall be stemmed if the hole is less than four (4) feet in depth unless other permissible stemming devices or methods are used;

(g) *Examinations* [In gassy mines, examinations] for gas shall be made immediately before firing each shot or group of multiple shots and after blasting is completed;

(h) Shots shall not be fired in any place where methane can be detected with a flame safety lamp when tested at a point not less than twelve (12) inches from the roof, face or rib;

(i) Charges exceeding one and one-half (1-1/2) pounds, but not exceeding three (3) pounds, shall be used only if boreholes are six (6) feet or more in depth, the explosives are charged in a continuous train, with no cartridges deliberately deformed or crushed, with all cartridges in contact with each other and with the end cartridges touching the back of the hole and the stemming respectively; provided, however that the three pound limit does not apply to special solid rock work if the mine is evacuated or if approved by the department;

(j) Shots shall be charged and fired by qualified shot firers designated by the mine foreman;

(k) Boreholes shall not be charged while any other work is being done at the face, and the shot or shots shall be fired before any other work is done in the zone of danger from blasting except that which is necessary to safeguard the employes;

(l) Only nonmetallic tamping bars shall be used for charging and tamping boreholes. This does not prohibit the use of a nonmetallic tamping bar with a nonsparking metallic scraper on one (1) end;

(m) The leg wires of electric detonators shall be kept shunted until ready to connect to the firing cable;

(n) Shots shall not be fired from the power of signal circuit while any men are in the mine;

(o) The roof and ribs of working places shall be tested before and after firing each shot or group of multiple shots;

(p) Ample warning shall be given before shots are fired, and care shall be taken to ascertain that all persons are in the clear. Men shall be removed from adjoining working places when there is danger of a shot blowing through;

(q) Mixed types or brands of explosives shall not be charged or fired in any borehole;

(r) Mudcaps (adobes) or other unconfined shots shall not be fired underground in a mine.

(11) Blasting cables shall be:

(a) Well insulated and as long as may be necessary to permit the shot firer to get in a safe place around a corner;

(b) Short-circuited at the battery end until ready to attach to the blasting unit;

(c) Staggered as to length or the ends kept well separated when attached to the detonator leg wires;

(d) Kept clear of powerwires and all other possible sources of active or stray electric current.

(12) Where misfires occur with electric detonators, a waiting period of at least five (5) minutes shall elapse before anyone returns to the shot. After such failure, the blasting cable shall be disconnected from the source of power and the battery ends short-circuited before electric connections are examined.

(13) Explosives shall be removed by firing a separate charge at least two (2) feet away from, and parallel to, the misfired charge or by washing the stemming and the charge from the borehole with water, or by inserting and firing a new primer after the stemming has been washed out.

(14) A very careful search of the working place, and, if necessary, of the blasted material after it reaches the surface shall be made after blasting a misfired hole, to recover any undetonated explosive.

(15) The handling of a misfired shot shall be under the direct supervision of the mine foreman or a competent person designated by him.

(16) Where compressed air is used for blasting or breaking coal or clay, the following shall apply:

(a) Compressed air shall be conducted from the compressor to within a practical working distance of the face by steel airlines tested to withstand an approximate pressure of twenty thousand (20,000) pounds per square inch;

(b) Airlines shall be grounded at the compressor and, if possible, at other low-resistance ground connections along the lines, such as at borehole casings. They shall not be connected in any way to tracks, waterlines, or other electric power return conductors and shall be suitably insulated where they cross electric wires or underneath the track;

(c) Shutoff valves shall be installed every one thousand (1,000) feet in all compressed-air blasting lines and in all branch lines at a point near the main lines;

(d) Compressed-air blasting lines shall be protected at places where equipment passes over, under, or adjacent to them;

(e) Steel, copper, or other lines shall not be handled or repaired when air pressure is in the line;

(f) Airlines shall be examined periodically for kinks or other weaknesses and replaced immediately when defects are found;

(g) Copper tubing shall be coiled and uncoiled properly. The part of the tubing that is affected by frequent coiling and uncoiling shall be renewed periodically because of the dangers from kinks and crystallization;

(h) Blowdown valves shall not be less than forty-five (45) feet from the face and shall be around a right angle;

(i) Holes for compressed-air tubes shall be within the limits of the cut;

(j) When blowdown valves are opened to discharge the tube, they shall remain open until time to place the tube in the next borehole except where shear-strip or shear-pin tubes are used;

(k) After breaking down the coal or clay in any one (1) place, the tube shall be disconnected at once from the airline and not reconnected until ready to be used in the next place;

(l) When a differential-pressure-type tube fails to discharge, the line leading to the tube shall be disconnected at the blowdown valve, and the tube shall be dragged by means of the line to an inactive place, marked with warning signs, and left one (1) hour before any repair work is done thereon;

(m) All persons shall be removed from adjoining working places where there is danger of breaking through and shall be at a safe distance around a right angle while coal or clay breaking is in progress.

Section 26. KRS 352.270 is amended to read as follows:

Buildings used for the storage of oils or similar *flammable* [inflammable] material shall not be located within one hundred (100) feet of any hoisting or escape shaft or mine opening. *Oil, grease or similar flammable material shall not be stored within one hundred (100) feet of any hoisting or escape shaft or mine opening.* Oil and grease used in mines shall be taken into the mine from day to day with one day's supply being the maximum. Oil and grease stored underground shall be kept in closed containers.

Section 27. KRS 352.280 is amended to read as follows:

In all [gassy] mines the operator or superintendent shall employ one or more certified fire bosses or other properly certified persons. The fire boss or other properly certified person shall examine carefully within three (3) hours before each shift enters the mine, every working place, all places adjacent to live workings, every roadway, every unfenced road to abandoned workings, and all pillar falls in the mine. Before proceeding with the examination he shall see that the air current is traveling its proper course. In making the examination he shall use an approved safety-lamp. The fire boss or other properly certified person shall examine for all dangers in all portions of the mines under his charge, and after examination he shall leave at the face of every place examined the date and time of the examination and his initials as evidence that he has performed his duty. He shall also examine the entrances to all worked-out and abandoned portions adjacent to the roadways and working places under his charge where explosive gas is likely to accumulate, and he shall place a danger signal across the entrance to every place where explosive gas is discovered or where immediate danger is found to exist from any other cause. The signal shall be sufficient warning for persons not to enter. When the mine is idle and workmen are required to go into the mine, the section, portion or part of the mine entered [, if gassy,] must be inspected by a fire boss or other properly certified person within three (3) hours before the workmen enter.

Section 28. KRS 352.450 is amended to read as follows:

(1) The operator or superintendent of each underground mine shall annually make or cause to be made *a map of the workings of the mine which is accurate and of professional quality, on a scale of not less than one hundred (100) and not more than five hundred (500) feet to the inch, showing the area mined and the forms of the excavations up to January 1, together with the location and connection of the property and mineral lease lines of all adjoining lands within one thousand (1,000) feet of the excavations and, marked on each tract, the name of each owner or lessee of adjoining lands and of mine property for which the map is being filed. Such map shall also show:*

(a) The proposed general plan of mining for the next twelve (12) months;

(b) All pillared, worked-out, and abandoned areas;

(c) Entries and aircourses with the direction of airflow indicated by arrows:

(d) Dip of the coal bed;

(e) Escapeways;

(f) Major roof falls;

(g) Any worked-out areas within one thousand (1,000) feet of the projections proposed for the next twelve (12) months, designating whether active, abandoned or pillared, and showing precautions to be taken if

mines are projected towards old workings which cannot be examined;

(h) Mines above or below;

(i) Water pools above;

(j) Location of all known oil and gas wells (both producing and abandoned) within the area required to be mapped, as well as owners and well numbers when possible;

(k) Such map shall identify those areas of the mine which are inaccessible or cannot be entered safely and on which no information is available;

(l) The name and address of the mine, the mine number, seam, seam thickness;

(m) The scale and orientation of the map, longitude and latitude, and corresponding USGS 7.5 minute quadrangle map;

(n) The property or boundary lines of the mine, indicating the twenty-five (25) foot barrier required by KRS 352.490 between projections and property lines;

(o) All known drill holes that penetrate the coalbed being mined;

(p) All shaft, slope, drift, and tunnel openings and auger and strip mined areas of the coalbed being mined;

(q) The location of all surface mine ventilation fans; the location may be designated on the mine map by symbols;

(r) The location of railroad tracks and public highways leading to the mine, and mine buildings of a permanent nature with identifying names shown, and water sheds near openings of the mine;

(s) The location and description of at least two (2) permanent base line points coordinated with the underground and surface mine traverses, and the location and description of at least two (2) permanent elevation bench marks used in connection with establishing or referencing mine elevation surveys, and any other identifying permanent landmarks;

(t) The location and elevation of any body of water dammed in the mine or held back in any portion of the mine; provided, however, such bodies of water may be shown on overlays or tracings attached to the mine maps used to show contour lines;

(u) The elevations of tops and bottoms of shafts and slopes, and the floor at the entrance to drift and tunnel openings;

(v) The elevation of the floor at intervals of not more than two hundred (200) feet in:

1. At least one (1) entry of each working section, main entry and cross entries;

2. The last line of open crosscuts of each working section, and main and cross entries before such sections and main and cross entries are abandoned;

3. Rooms advancing toward or adjacent to property or boundary lines or adjacent mines; and

(w) Contour lines passing through whole number elevations of the coalbed being mined. The spacing of such lines shall not exceed ten (10)-foot elevation levels, except that a broader spacing of contour lines may be approved by the commissioner or his authorized representative for steeply-pitching coalbeds. Contour lines may be placed on overlays or tracings attached to mine maps.

[an accurate map of the workings of the mine, on a scale of one hundred, two hundred, three hundred, four hundred, or five hundred feet to the inch, showing the area mined and the forms of the excavations up to January 1, together with the location and connection of the lines of all adjoining lands within one thousand feet of the excavations, and the name of each owner so far as known, marked on each tract.] The operator or superintendent shall deposit a true copy of the map with the commissioner within forty-five (45) days after January 1, and another copy of the map shall be kept at the office of the mine. A copy shall also be furnished the district office of the department.

(2) After making and filing the map with the commissioner, the operator or superintendent thereafter is only required to file annually with the commissioner, within the time specified, such additional map and statement as is necessary to show the progress of the workings, the amount and forms of excavations and the property lines within one thousand (1,000) feet of the excavations extended since the date of the preceding map. The commissioner shall annually, before January 1, give notice that the map is required.

(3) The commissioner may require any operator or superintendent to furnish a map other than those required in subsections (1) and (2) of this section or of a surface mine, and the operator or superintendent shall immediately comply with the requirement.

(4) The mine inspector shall have the authority to stop production at the mine of any operator who does not furnish *within thirty (30) days of notification of specific deficiencies* a map *which fully complies with the requirements of* [as required under] this section.

SECTION 29. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

Any person who knowingly works in or at a mine without a certificate issued under the provisions of this Act, any person who knowingly employs an uncertified miner to work in an underground coal mine in this state, or any operator who fails to insure the supervision of trainee miners shall be guilty of a misdemeanor and shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). Each day of employment shall constitute a separate offense.

Section 30. KRS 351.100 is repealed.

Section 31. Whereas, the safety of miners in underground coal mines is of the utmost importance to the citizens of the Commonwealth, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **SB 8** is as follows:

Amend printed copy of Senate Bill 8, page 10, line 7, after the word "assignments," add:

"but in no case less than twenty (20) hours training for new work assignments,"

The Committee Amendment No. 2 to **SB 8** is as follows:

Amend printed copy of Senate Bill 8, page 2, line 15, after "hours" add "or who is enrolled in a certified mine technology program"

SB 5, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:
The General Assembly hereby finds and declares the following:

(1) Thousands of Kentuckians enter underground mines each day to produce coal that is so vital to the economy of our nation and the well-being of its people.

(2) The underground coal mine is a hazardous environment that constantly requires the highest degree of safety consciousness on the part of every individual.

(3) Despite training and a variety of safety efforts, each year coal mines continue to take a heavy human toll: large numbers of miners are injured; many are left permanently disabled; and a lesser number pay the ultimate price—eath.

(4) Many activities are performed by a variety of persons; therefore, each coal miner is expected to learn and perform a large number of tasks.

(5) Miners frequently become engaged in unfamiliar tasks when substituting for others or assisting a fellow worker.

(6) The American zeal for work and productivity very frequently causes the miner to give second priority to normal safety measures and precautions.

(7) Studies have demonstrated that experienced persons observing and providing-on-the-job counseling to individual miners regarding their work habits can bring about a significant reduction in underground mine accidents and fatalities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in the department the division of mine safety analysis.

(2) Persons shall be employed in the division as mine safety analysts who shall hold a valid and current mine inspector's certificate.

(3) The primary responsibility of the safety analyst is to prevent mine accidents and fatalities by observing and evaluating the work habits of persons involved in the direct production of coal and to contact, advise, and assist these persons in correcting their unsafe or potentially hazardous actions.

(4) The safety analyst shall have the same powers as a mine inspector of the department, but these powers shall be considered secondary to the primary responsibilities provided in subsection (3) of this section. Each time a safety analyst enters a mine to perform his primary responsibility, he shall check with the foreman the status of roof control, ventilation, rock-dusting, and cleanup.

(5) The safety analyst shall keep mine management, representatives of the employes, and the commissioner informed about all hazardous conditions and all matters which may improve the safety of mines.

(6) The division shall assist the division of miner training, education, and certification in assessing the effectiveness of miner training programs.

(7) The commissioner shall at his discretion assign safety analysts to all underground mines in the state taking into consideration such factors as the history of accidents at the mine, experience of the work force, physical condition of the mine, and size of the mine.

(8) The commissioner may coordinate the assignment of safety analysts with the appropriate federal authorities to minimize duplication of accident prevention efforts.

(9) The commissioner shall report annually to the general assembly and to the governor on the effectiveness of the safety analysts in improving mine safety.

SECTION 3. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

- The responsibilities and duties assigned to the mine safety analyst shall not be construed to limit in any way the responsibilities and duties provided in KRS Chapter 351 and KRS Chapter 352 for any other person.

Section 4. Whereas, the safety of miners in underground coal mines is of the utmost importance to the citizens of the Commonwealth, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Judiciary-Courts reported **HB 17, HB 18, HB 19,** and HB 20 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 17, AN ACT relating to the disqualification of prosecuting attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section the following words or phrases shall have the meaning indicated:

(a) "Proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(b) "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(c) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

1. Ownership in a mutual or common investment fund that holds securities, or a proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, or ownership of government securities is a "financial interest" only if the outcome of the proceeding could substantially affect the value of the interest;

2. An office in an educational, religious, charitable, fraternal, or civil organization is not a "financial interest" in securities held by the organization.

(2) Any prosecuting attorney shall disqualify himself in any proceeding in the following circumstances:

(a) Where he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(b) Where he or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

1. Is a party to the proceeding, or an officer, director, or trustee of a party;
2. Is acting as a lawyer in the proceeding;
3. Is known by the prosecuting attorney to have an interest that could be substantially affected by the outcome of the proceeding;
4. Is to the prosecuting attorney's knowledge likely to be a material witness in the proceeding.

(c) Where he has served in private practice or government service, other than as a prosecuting attorney, as a lawyer or rendered a legal opinion in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter in controversy, or the prosecuting attorney or such lawyer has been a material witness concerning the matter in controversy.

(3) In the event that the prosecuting attorney is disqualified, the judge shall appoint a lawyer having the qualifications of a prosecuting attorney of the judicial circuit or the judicial district to act in the place of the disqualified prosecuting attorney during the proceeding, provided, that whenever the judge shall, from any cause, be unable to make such appointment, he shall certify such fact in writing to the attorney general who shall then designate and appoint a prosecuting attorney of another judicial circuit or judicial district to act in place of the disqualified prosecuting attorney.

HB 18, AN ACT relating to unprofessional conduct of attorneys and justices or judges of the Court of Justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:
When it comes to the attention of any judicial officer that any justice or judge of the Court of Justice or any attorney may have been guilty of unprofessional conduct, he shall at once report the matter to the proper investigating and disciplinary authorities.

HB 19, AN ACT relating to speedy trials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) In any case involving a defendant charged with an offense, the appropriate judicial officer, at the earliest practicable time, shall, after consultation with the counsel for the defendant and the attorney for the state, set the case for trial on a day certain, so as to assure a speedy trial.

(2) The arraignment of a defendant charged in an indictment or information with the commission of an offense shall be held within ten days from the filing date of the indictment or information, or from the date a defendant has been ordered held to answer and has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. Thereafter, where a plea of not guilty is entered, the trial of the defendant shall commence within sixty days from arraignment on the indictment or information at such place within the judicial district or circuit, as fixed by the appropriate judicial officer.

(3) If the defendant is to be tried again following a declaration by the trial judge of a mistrial or following an order of such judge for a new trial, the trial shall commence within sixty days from the date the action occasioning the retrial becomes final. If the defendant is to be tried again following an appeal or collateral attack, the trial shall commence within sixty days from the date the action occasioning the retrial becomes final, except that the court retrying the case may extend the period for retrial not to exceed one hundred and eighty days from the date the action occasioning the retrial becomes final if unavailability of witness or other factors resulting from passage of time shall make trial within sixty days impractical.

(4) The following periods of delay shall be excluded in computing the time within which the trial of any such offense must commence:

(a) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to the following:

1. delay resulting from an examination of the defendant, and hearing on his mental competency or physical incapacity;
2. delay resulting from trials with respect to other charges against the defendant;
3. delay resulting from interlocutory appeals;
4. delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement.

(b) Any period of delay during which prosecution is deferred by the attorney for the state pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.

(c) Any period of delay resulting from the absence or unavailability of the defendant or an essential witness.

(d) Any period of delay resulting from the fact that the defendant is mentally incompetent or physically unable to stand trial.

(e) If the indictment or information is dismissed upon motion of the attorney for the state and thereafter a charge is filed against the defendant for the same offense, or any offense required to be joined with that offense, any period of delay from the date the charge was dismissed to the date the time limitation would commence to run as to the subsequent charge had there been no previous charge.

(f) A reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted.

(g) Any period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the state, if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. No such period of delay resulting from a continuance granted by the court in accordance with this paragraph shall be excludable under this subsection unless the court sets forth, in the record of the case, either orally or in writing, its reasons for finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial.

(h) If trial did not commence within the time limitation specified in subsection (2) of this section because the defendant had entered a plea of guilty subsequently withdrawn to any or all charges in an indictment or information, the defendant shall be deemed indicted with respect to all charges therein contained within the meaning of subsection (2) of this section on the day the order permitting withdrawal of the plea becomes final.

SECTION 2. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:
If a defendant is not brought to trial within the time limit required by Section 1 of this Act, the indictment or information shall be dismissed on motion of the defendant. The defendant shall have the burden of proof of supporting such motion but the state shall have the burden of going forward with the evidence in connection with any exclusion of time under Section 1 of this Act. In determining whether to dismiss the case with or without prejudice, the court shall consider, among others, each of the following factors: the seriousness of the offense; the facts and circumstances of the case which led to the dismissal; the impact of a reprosecution on the administration of justice. Failure of the defendant to move for dismissal prior to trial or entry of a plea of guilty shall constitute a waiver of the right to dismissal under this section.

Section 3. This Act shall become effective July 1, 1978.

HB 20, AN ACT relating to circuit clerks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 30A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:
(1) For the purpose of Sections 1 through 18 of this Act, "clerk" means the circuit court clerk serving in his capacity as clerk of both the circuit court and the district court.
(2) As personnel within the Court of Justice, clerks are state officers whose duties are coextensive with the Commonwealth, and who are subject to the administrative control of the Chief Justice.

SECTION 2. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:
Every clerk and deputy, in addition to the oath prescribed by Section 228 of the Constitution, shall, before entering on the duties of his office, take the following oath in presence of the circuit court: "I, , do swear that I will well and truly discharge the duties of the office of ---------- County circuit court clerk, according to the best of my skill and judgment, making the due entries and records of all orders, judgments, decrees, opinions and proceedings of the court, and carefully filing and preserving in my office all books and papers which come to my possession by virtue of my office; and that I will not knowingly or willingly commit any malfeasance of office, and will faithfully execute the duties of my office without favor, affection or partiality, so help me God." The fact that the oath has been administered shall be entered on the record of the circuit court.

SECTION 3. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:
(1) All clerks, deputy clerks, and other persons employed in the office of the clerk shall be bonded to the Commonwealth for the faithful performance of their duties and for the accounting of all funds which may come into their hands by virtue of their office. They shall be covered by the blanket bond for all elected or appointed state officials.
(2) No other bond shall be required for performance of duty by the clerk, and any statute to the contrary is repealed to the extent of the conflict.

SECTION 4. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:
Every circuit court and every district court shall have a clerk's office in each county, and shall have such branch offices within the county as are approved by the Supreme Court. Minimum office hours of the clerk's offices shall be determined by the Supreme Court.

SECTION 5. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:
(1) The number and qualifications of deputy clerks and other employes in the office of each clerk shall be determined by the administrative office of the courts after consultation with the clerk concerned. All deputies and employes of the clerk's office shall be employes of the Commonwealth.
(2) Deputy circuit clerks, authorized by and under the direction of the circuit clerk, shall have full power to perform such duties as may be performed by the circuit clerk; and any act of a deputy clerk is entitled to the same faith and credit as that of the clerk.
(3) Deputy clerks and all other employes in the office of the clerk shall be compensated according to the pay schedule established by the judicial personnel system.

(4) The clerk may employ and dismiss such deputies and other employes.

SECTION 6. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Each clerk shall prepare in a proper manner every bond to be taken by or given before him or his court.

(2) The clerk shall refuse any surety offered in a bond to be taken by him who is, in his opinion, insufficient.

(3) The clerk shall prepare bail bonds as required by subsection (1) of this section; however, additional public officers or employes may be authorized by rule or order of the Supreme Court to prepare and accept bail bonds to be taken by the clerk or for his court. Such bail bonds shall have the same validity as if prepared or taken by the clerk.

SECTION 7. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Every clerk may administer oaths, in or out of court, touching any matter in which an oath may be legally administered, and may take any affidavit requested or permitted in the progress of a proceeding in his court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Every clerk shall maintain such records, files, dockets and indexes as are prescribed by statute or rule.

(2) All necessary record books and all necessary supplies required by the clerk's office shall be procured through the administrative office of the courts and paid for by the Court of Justice.

(3) No clerk shall permit the records or papers of his office to be taken out of his office except in case of invasion or insurrection, or other catastrophe, or pursuant to rule or order of court, and then he shall cause them to be returned as soon as the necessity for the removal ceases to exist.

(4) Records may be permanently transferred from the clerk's office by rule or order of the Supreme Court.

SECTION 9. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Unless the plaintiff has established his right to prosecute as a poor person as provided by statute or rule, each clerk shall, when a proceeding is filed in his court, collect the filing fee fixed by law. He shall also collect any charges which have accrued during the progress of the action.

(2) The clerk shall collect all other fees required by law or court rule or order.

SECTION 10. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

At the termination of an action, every clerk shall assess the costs of each party and file it with the case. The assessment shall be subject to correction by the court by motion upon notice given.

SECTION 11. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Each clerk shall pay to each juror, each jury commissioner, and to each witness the compensation allowed to him by law, under appropriations provided by the general assembly and in accordance with procedures governing expenditures from appropriations. He shall take a receipt for each payment made by him showing the date on which payment is made. A cancelled check shall be the equivalent of a receipt. For the purpose of providing for such payments, the state treasurer, on direction of the executive department for finance and administration, shall advance to each clerk two imprest funds: one for the payment of jurors and jury commissioners which shall be sufficient for the period of service of each grand or petit jury panel, or both, but not to exceed a period of sixty (60) days; the other for the payment of Commonwealth witnesses, which shall be sufficient for a period of time not to exceed sixty (60) days.

(2) Each clerk shall be liable on his official bond to account for the full amounts advanced to him under this section. Each clerk shall file a separate statement concerning each imprest fund with the executive department for finance and administration, in such form as the department prescribes, showing the amounts disbursed since the last preceding report, accompanied by a copy of the cancelled check, or a receipt for each amount disbursed signed by the person to whom it was paid, and showing the date of the payment and such other information as the department prescribes. These reports shall be forwarded to the department within thirty (30) days after the end of the period for which funds are advanced.

(3) Any clerk who fails to comply with the provisions of subsection (2) shall be required to pay a penalty of five percent (5%) of all funds not so paid or accounted for.

SECTION 12. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Every clerk shall collect all fines and forfeitures imposed in district and circuit court, and shall issue receipts therefor.

(2) At the close of business daily the clerk in each county shall deposit in a bank designated as a state depository the proceeds from fines and forfeitures, and within three working days after the first and fifteenth of each month submit to the executive department for finance and administration a report listing all fines and forfeitures collected, and shall pay over to the department in the manner prescribed by the department at the same time all costs, fines, forfeitures, and other moneys so reported.

(3) Upon the failure of the clerk to submit to the department, within the prescribed period, the required report and to pay over, at the same time, the costs, fines, forfeitures and other moneys collected, the department shall immediately notify the auditor of public accounts that the clerk concerned is delinquent in the matter.

SECTION 13. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Every clerk shall prepare, attest and certify copies of all documents and records in his office upon payment of the charge established by statute.

SECTION 14. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Every clerk shall perform such additional duties as may be prescribed by statute or court rule.

SECTION 15. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Whenever a vacancy occurs in the office of the clerk, the chief judge of the judicial circuit shall, within thirty (30) days appoint a qualified successor to the office who shall serve until replaced as provided by Section 152 of the Constitution.

SECTION 16. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Upon the resignation, removal from office or expiration of the term of office of a clerk, he shall immediately deliver to his successor, or such other person as the court orders, all books, records, and other papers belonging to his office. For failure to do so he shall be guilty of a Class A misdemeanor.

SECTION 17. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Each circuit clerk shall be, ex officio, a special circuit clerk of the Commonwealth, and as such shall perform the duties and services required by Section 87 of this Act, at such time and places, coextensive with the Commonwealth, as required by the Chief Justice.

SECTION 18. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

In the event of a vacancy in the office of circuit clerk in any county, the Chief Justice may assign any other circuit clerk in the Commonwealth as special circuit clerk to fill the vacancy for a period not to exceed thirty (30) days, or until a person is appointed to fill the vacancy as provided by law, whichever occurs first.

SECTION 19. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The salaries of circuit clerks, payable out of the state treasury, per annum shall be:

COUNTY POPULATION	SALARY
0—4,999	$10,000
5,000—9,999	15,000
10,000—14,999	18,000
15,000—19,999	20,000
20,000—29,999	21,000
30,000—39,999	22,000
40,000—49,999	23,000
50,000—99,999	24,000
100,000—499,999	25,000
500,000 and up	27,500

SECTION 20. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The initial population determination for compensation under Section 19 of this Act shall be based on the 1970 Federal Census or the "Final" issue of "Current Population Reports, 1974" issued by the United States Bureau of the Census, whichever is greater. In 1981 and thereafter, population shall be based on the decennial census.

The Committee on State Government reported **SB 2** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 2, AN ACT relating to the promotion of the State Police Officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.055 is amended to read as follows:

(1) Promotions to sergeant within the bureau shall be on the following terms and conditions:

(a) The applicant must *have served as a commissioned state police officer for a period of five years* [be classified as senior trooper] to be eligible for promotion to sergeant;

(b) Promotions shall be based on the highest cumulative score computed from thirty percent (30%) on personnel performance evaluation, *twenty percent (20%)* [thirty percent (30%)] on oral examination, and *fifty percent (50%)* [forty percent (40%)] on a written examination;

(c) The promotional list shall continue in existence for one (1) year and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;

(d) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken;

(e) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%);

(f) The oral examination shall be conducted by interview boards designated by the commissioner consisting of the commissioner or his designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky state police of the rank equal to the position for which the applicant is competing;

(g) The designated oral boards will perform all interviews under guidelines developed and approved by the commissioner;

(h) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.

(2) Promotions from sergeant to lieutenant within the bureau shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least one (1) year of continuous service in grade as sergeant.

(3) Promotions from lieutenant to captain within the bureau shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain must have completed at least one (1) year of continuous service in grade as lieutenant.

(4) The bureau will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.

(5) The provisions of KRS 16.140 to the contrary notwithstanding, all ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.

(6) The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) non-supervisory officers.

(7) No officer of the bureau, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.

(8) There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the bureau promotional system. All personnel actions are to be based solely on merit.

The Committee on Agriculture and Natural Resources reported **HR 12** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar

HR 12, A RESOLUTION requesting the Governor to meet with representatives of coal operators and miners in the Western Kentucky coalfields for the purpose of setting a reward for the arrest and conviction of person or persons responsible for bomb threats or the placing of bombs in underground mines.

WHEREAS, this extraordinary session of the General Assembly has as one of its primary concerns the safety of miners working underground; and

WHEREAS, in recent weeks there have been numerous threats to place bombs in underground mines in the Western Kentucky coalfields; and

WHEREAS, in one case a bomb was found in an underground mine, threatening the lives of the miners working there; and

WHEREAS, to date no arrests have been made regarding the threats or the actual placing of a bomb in the mine; and

WHEREAS, this has resulted in a feeling of uneasiness among miners in the region which itself creates an unsafe condition in the mines;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Governor be requested to meet with representatives of the coal operators in the Western Kentucky coalfields and the President of District 23 of the United Mine Workers of America for the purpose of establishing a reward, of such amount as they may deem necessary, for information leading to the arrest and conviction of the party or parties responsible for bomb threats or the placing of bombs in underground mines in that region.

Section 2. That copies of this resolution be sent to the Governor, to the Division Director of Peabody Coal Company in Western Kentucky, and to the President of District 23 of the United Mine Workers of America.

The Committee on Rules reported **HB 8,** with Committee Amendment attached thereto, has been posted for passage in Orders of the Day, December 8, 1976.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **SR 5.**

Cities: **HB 27.**

Representative McBride moved that the rules be suspended for the purpose of discussion of amending the rules concerning the order of business.

On the roll call the vote was yeas 60-Ackerson, B. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Carpenter, Cooper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Doss, Dunn, Floyd, Givhan, Gray, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Kidd, Kleier, LeMaster, Lindsay, Little, Mann, McBee, McBride, McGill, McNutt, Muncy, O'Brien, Overstreet, Pearl, Priddy, Richards, Robinson, Romines, Sale, Schmidt, Siemens, Tobin, R. Turner, Wible, Wooden, Yates. Nays 12-A. S. Adams, Burnette, Clapp, Craddock, Donnermeyer, Fitzgerald, Kenton, Mason, Morris, B. Richardson, Stephens, Vincent.

The motion that the rules be suspended for the purpose of amending the rules concerning the order of business was adopted.

Representative McBride moved that the rules be amended to place "Motions, Petitions, and Communications" in the order of business before "Orders of the Day".

On the roll call the vote was yeas 57-Ackerson, B. Adams, W. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Carpenter, Clarke, Cooper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Doss, Dunn, Fitzgerald, Floyd, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Kidd, Kleier, LeMaster, Lindsay, McBride, McGill, McNutt, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, Robinson, Romines, Sale, Schmidt, Siemens, Tobin, R. Turner, Wible, Wooden, Yates. Nays 16-J. Allen, Benson, Clapp, Craddock, Donnermeyer, Imes, Jones, Kenton, Little, Mann, Mason, Morris, Muncy, B. Richardson, Stephens, Vincent.

The motion that the rules be amended to place "Motions, Petitions, and Communications" in the order of business before "Orders of the Day" was adopted.

Motions, Petitions, and Communications

Representative Benson moved that **HB 9** and **HB 11** be withdrawn. Agreed.

The following announcements were made to the House:

Committee on Cities meeting, Room 305, 11 a.m., December 12, 1976, for discussion of **HB 27.**

Committee on Business Organizations and Professions, no meeting on December 8, 1976.

Committee on Elections and Constitutional Amendments, no meeting on December 8, 1976.

Committee on Appropriations and Revenue, no budget hearings on December 8, 1976.

Committee on Judiciary-Courts meeting, Room 307, 9 a.m., Thursday, December 9, 1976.

Committee on Labor and Industry meeting, Room 307, 10 a.m. December 8, 1976.

Recess

Representative B. Richardson moved that the House recess for five minutes for a meeting of the Committee on Committees. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions, and Communications (continued)

Representative Brown filed Floor Amendment No. 2 to **HB 5.**

Representative B. Richardson moved that the Clerk read the amended call of the First Extraordinary Session of the General Assembly for 1976 from Governor Julian M. Carroll. Agreed.

PROCLAMATION

by the

Governor

of the

COMMONWEALTH OF KENTUCKY

To the General Assembly of the Commonwealth of Kentucky And To All Whom These Presents Shall Come:

Pursuant to the power vested in me by Section 80 of the Constitution of Kentucky to convene the General Assembly into Extraordinary Section, I, Julian M. Carroll, Governor of Kentucky, did issue my proclamation, convening the General Assembly of Kentucky in Extraordinary Session at the Seat of Government, Frankfort, Kentucky, at 1:30 p.m. (EST), Wednesday, December 1, 1976, for the sole purpose of considering the following subjects:

(1) The enactment of legislation to implement Sections 109 through 124 of the Constitution of Kentucky, including the schedule of transitional provisions in Section 2 of Chapter 84 of the Acts of the 1974 General Assembly, and the enactment of the necessary legislation relating to the duties, functions, compensation and expenses of officials and the responsibilities of governmental entities affected thereby and to provide for the levy, assessment, collection, accounting and disposition of fees, fines, forfeitures and costs from the Court of Justice and to make all necessary appropriations of funds and to provide the necessary facilities, personnel and services required by such enactments.

(2) The enactment of legislation relating to a certification program for underground coal miners, authorizing the employment of mine safety analysts by the Department of Mines and Minerals, revising KRS Chapters 351 and 352 as they pertain to mine safety, and appropriating the necessary funds therefor.

(3) The enactment of legislation regarding the imposition of sentences for capital offenses.

(4) The enactment of legislation pertaining to metropolitan sewer districts in counties containing cities of the first class.

(5) The amendment of KRS 342.730, 342.740 and 342.750 to increase benefits for disability to sixty-six and two-thirds percent (66 2/3%) of an employee's average weekly wage not to exceed sixty percent (60%) of the average weekly wage of the state; to enact legislation limiting the minimum benefits provided in KRS 342.740(1) to awards for total disability, providing for an increase of benefits for permanent partial disability to such minimum and a corresponding decrease in the compensable period where the benefits are less than the minimum so provided; to enact legislation to provide for the payment to the estate of an employee with no statutory dependents whose death is directly attributable to a work related injury the sum of ten thousand dollars ($10,000) in addition to the amount provided in KRS 342.720, subject to a credit for any income benefits previously paid for the same injury.

(6) The enactment of legislation amending KRS 342.122 as it pertains to the method by which assessments are levied upon self-insured employers and to amend KRS 342.345, 342.350, and 342.495-.550 relating to methods of providing workmen's compensation insurance.

(7) The repeal of KRS 61.928 and re-enactment of KRS 61.360.

(8) The amendment of KRS 278.047(2) by the addition of the word "electric" before the word "utilities".

(9) The amendment of KRS 136.070 relating to corporate license taxes to equalize the treatment of corporations operating through non-resident subsidiaries with those operating through divisions at the election of the taxpayer corporation and to make provision for defining the "capital" of a holding company.

(10) The enactment of legislation relating to enrollment in a qualified health maintenance organization as an option to regular group health benefits by state and local government employees.

(11) The amendment of KRS 139.170 to clarify the fact that the sales tax exemption applicable to "machinery for new and expanded industry" applies to machinery for processing and extracting industries.

(12) The enactment of legislation pertaining to the construction of wills and trusts in the application of Section 2002 (d)(1)(B)(iv) of the Federal Tax Reform Act of 1976.

(13) The enactment of legislation restoring the exemption from distribution and sale of personal property or money to the amount of three thousand five hundred ($3,500) dollars provided in KRS 391.030 to spouses renouncing the will of a deceased spouse.

(14) The enactment of legislation authorizing the establishment of a basic coverage compensation fund for the payment of claims for damages for malpractice against the University of Louisville and its agents.

(15) The enactment of legislation to authorize alternative methods for voting in any county where the presentation of all candidates comprising the official ballot cannot be accomplished upon existing equipment.

(16) The enactment of legislation amending KRS 16.055 relating to the promotion of state police personnel to the rank of sergeant.

(17) The enactment of legislation relating to the investigation and prosecution of criminal charges and the functions, duties, authority, compensation and expenses of the Attorney General, the Commonwealth's Attorneys, and the County Attorneys, and to appropriate the necessary funds therefor.

(18) The enactment of legislation amending KRS 138.220, 138.660, 234.320 to provide for the assumption by the state of an amount equal to any decrease in the rate or an increase in the tax credits provided by 26 U.S.C. 4081 and 26 U.S.C. 4041 imposed by the federal government.

(19) The enactment of legislation amending Part I, A(11)(c) of Chapter 55 of the 1976 Acts of the General Assembly to provide that any unexpended balance in the account for salary improvements for state employees at the close of the 1976-77 fiscal year shall not lapse, but shall continue into the 1977-78 fiscal year.

(20) The adoption of a resolution creating a commission to review the statutes on County Government and to make recommendations to the 1978 General Assembly, and to appropriate the necessary funds therefor.

(21) The enactment of legislation to make the necessary appropriations, and to amend any previous appropriations for such purpose, for the following agencies, departments, bureaus or programs:

(a) Kentucky Center for Energy Research;
(b) Council on Agriculture;
(c) General Contingency Fund;
(d) Kentucky Employes' Retirement System;
(e) Bureau of State Police;
(f) Bureau of Corrections;
(g) Executive Department for Finance and Administration;
(h) Department of Banking and Securities;
(i) Office of Public Defender;
(j) The Special Fund.

I now reaffirm the consideration of those subjects set out above and add the following subject to be considered by the General Assembly:

(22) The enactment of legislation to prohibit wagering or receiving, making, transmitting or negotiating, either in person or by messenger or agent, wagers except within the enclosure of a duly licensed race track during an authorized meeting at that track, and to provide a penalty for violation thereof.

DONE AT THE CAPITOL, in the City of Frankfort, this the 24th day of November, in the year of Our Lord One Thousand Nine Hundred Seventy-six and in the year of the Commonwealth the One Hundred Eighty-fifth.

JULIAN M. CARROLL
GOVERNOR

Drexell R. Davis
Secretary of State

Clinton H. Newman II
Assistant Secretary of State

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions, Reference of Bills and Resolutions, Posting of Bills and Resolutions for Consideration, and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 36, by Representatives Kleier, Dietz, J. Allen, DeFalaise, Donnermeyer, Floyd, Isler, Mann, Muncy, P. Richardson, Schmidt, Siler, Thomas, and Wible: AN ACT relating to jails, workhouses and prisoners.

HB 37, by Representative Stephens: AN ACT relating to workmen's compensation.

HB 38, by Representative Stephens: AN ACT relating to workmen's compensation.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 30.**

Cities: **HB 34.**

Elections and Constitutional Amendments: **HB 33.**

Judiciary-Courts: **HB 32.**

Judiciary-Statutes: **HB 31, HB 35, SB 3.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 34.**

Judiciary-Courts: **HB 32.**

Health and Welfare: **HB 2, HB 15.**

Report of Committees

The Committee on Judiciary-Courts reported **HB 21,** with Committee Amendments attached thereto, and **HB 23,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 21, AN ACT relating to the disposition of traffic matters by the Court of Justice and governmental agencies affected thereby.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:
(1) The fines for speeding in violation of KRS 189.390 and 189.391 shall be:

Mph. Over Limit	Prima Facie or Maximum Speed								
	15	20	25	30	35	40	45	50	55	Fine
1	16	21	26	31	36	41	46	51	56	$ 1
2	17	22	27	32	37	42	47	52	57	2
3	18	23	28	33	38	43	48	53	58	3
4	19	24	29	34	39	44	49	54	59	4
5	20	25	30	35	40	45	50	55	60	5
6	21	26	31	36	41	46	51	56	61	6
7	22	27	32	37	42	47	52	57	62	7
8	23	28	33	38	43	48	53	58	63	8

9	24	29	34	39	44	49	54	59	64	9
10	25	30	35	40	45	50	55	60	65	10
11	26	31	36	41	46	51	56	61	66	12
12	27	32	37	42	47	52	57	62	67	14
13	28	33	38	43	48	53	58	63	68	16
14	29	34	39	44	49	54	59	64	69	18
15	30	35	40	45	50	55	60	65	70	20
16	31	36	41	46	51	56	61	66	71	22
17	32	37	42	47	52	57	62	67	72	24
18	33	38	43	48	53	58	63	68	73	26
19	34	39	44	49	54	59	64	69	74	28
20	35	40	45	50	55	60	65	70	75	30
21	36	41	46	51	56	61	66	71		33
22	37	42	47	52	57	62	67	72		36
23	38	43	48	53	58	63	68	73		39
24	39	44	49	54	59	64	69	74		42
25	40	45	50	55	60	65	70	75		45

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than fifty dollars ($50) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed the defendant may elect to pay the fine to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5) In the event that the fine is paid to the clerk before trial date costs shall be ten dollars ($10).

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, [KRS 189.390, except paragraph (c) of subsection (4),] KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, shall be fined not less than $10.00 nor more than $100 for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than $10.00 nor more than $2,000 or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than $1.00 nor more than $20.00. Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2)(a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2¢) per pound for each pound of excess load when the excess is 2,000 pounds or less, three cents (3¢) per pound when the excess exceeds 2,000 pounds and is 3,000 pounds or less, five cents (5¢) per pound when the excess exceeds 3,000 pounds and is 4,000 pounds or less, seven cents (7¢) per pound when the excess exceeds 4,000 pounds and is 5,000 pounds or less, and nine cents (9¢) per pound when the excess exceeds 5,000 pounds but in no case shall the fine be less than $50.00 nor more than $500.

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding $500.

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the bureau of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or driver's or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than $5.00 nor more than $50 for each day he operates a truck in violation of KRS 189.170.

(4)(a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than $5.00.

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than $25.00 nor more than $200.

(5)(a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than $15.00 nor more than $100.

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than $15.00 nor more than $100.

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than $500 or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than $5.00 in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than $10.00 nor more than $50.00.

(9)(a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than $100 nor more than $500; for the second offense, a fine of not less than $100 nor more than $500 and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than $100 nor more than $500 and imprisoned for not less than thirty (30) days nor more than twelve (12) months.

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than $25.00 nor more than $100.

(10) Any person who violates KRS 189.530 shall be fined not less than $25.00 nor more than $100 or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than $10.00 nor more than $100 for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than $20.00 nor more than $100 for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than $10.00 nor more than $100 for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not exceeding $25.00.

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than $10.00 nor more than $100 for each offense.

(17)(a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than $15.00 nor more than $200, or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than $100 nor more than $500. Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than twenty-five (25) dollars nor more than one hundred (100) dollars or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than $25 nor more than $500, or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than $50 nor more than $1,000, or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157(2).

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates this section shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

SECTION 3. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) The bureau of state police in consultation with the department of transportation shall design, print, and distribute to all law enforcement agencies in the Commonwealth a uniform traffic citation.

(2) The citation shall:

(a) Be approved by the Supreme Court;

(b) Consist of an original document and four (4) copies;
(c) Be serially numbered in such a manner that the year of issue and the individual citation number may be readily ascertained; and
(d) Contain such other information as may be required by the Supreme Court.
(3) The circuit court clerk shall maintain a system of accountability for all citations issued in that county and the fiscal court or the urban county government shall issue rules and regulations to assure that citations are not wrongfully destroyed, tampered with, or otherwise compromised in any manner.
(4) All peace officers in the Commonwealth shall use the uniform traffic citation for all violations of the traffic laws.

SECTION 4. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:
(1) No peace officer or other person shall invalidate, or attempt to invalidate, destroy or attempt to destroy a record copy of a uniform traffic citation which has been lawfully issued.
(2) No peace officer or other person to whom uniform traffic citations are distributed, prior to issuance to a violator, shall fail to properly account for uniform traffic citations issued to him or to his agency as required by this Act and the regulations issued thereunder.
(3) No person required to file reports pursuant to this Act and the regulations issued thereunder shall fail to file the reports within the time limits specified.
(4) Any peace officer or other person who violates the provisions of this section shall be guilty of a Class B misdemeanor.

The Committee Amendment No. 1 to **HB 21** is as follows:

Amend printed copy of House Bill 21, page 10, by inserting after line 22 the following:

"Section 5. KRS 186.480 is amended to read as follows:
(1) The state police may examine every *unlicensed* applicant for an operator's license [or renewal of an operator's license] except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless the applicant is granted written permission by the circuit clerk of the county in which he resides, to take the examination in another county, and the state police agrees to arrange for the examination in the other county. The examination may include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning and directing traffic, his knowledge of traffic laws and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section.
(2) Any person whose operator's license is denied, suspended or revoked for cause, shall apply for reinstatement at the termination of the period for which the license was denied, suspended or revoked by submitting to the examination.

SECTION 6. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

Any person licensed to drive a motor vehicle in this state who is involved as a driver in three accidents in any twenty-four month period, which are reported to the Department of Transportation, may, in the discretion of the department, be required to take any portion of the driver's license examination deemed appropriate. Any person who has had three such accidents and fails to submit to such test within thirty (30) days after having been notified by the department shall have his driver's license suspended until he takes and passes such test."

The Committee Amendment No. 2 to **HB 21** is as follows:

Amend printed copy of House Bill 21, page 10, by inserting after line 22 the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

Conviction for any one of the following moving hazardous violations on a limited access highway of four (4) or more lanes in Kentucky on which the speed limit is 50 mph or higher shall be cause for assessment of the penalty points indicated:

Speeding 15 MPH or less over the limit	0 points
Speeding 16 MPH or more, but less than 20 MPH, over the limit	2 points

Speeding 21 MPH or more, but less than 25 MPH, over the limit ....3 points
Speeding 26 MPH or more over the limit, but less than 30 MPH over the limit....................4 points
Speeding 31 MPH or more over the limit....................6 points"

HB 23, AN ACT relating to the court of justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:
When jurisdiction over any matter is granted to district court by statute, such jurisdiction shall be deemed to be exclusive unless the statute specifically states that the jurisdiction shall be concurrent.

SECTION 2. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:
(1) The district court has exclusive jurisdiction to make a final disposition of any charge or a public offense denominated as a misdemeanor or violation, except where the charge is joined with an indictment for a felony, and all violations of county, urban-county, or city ordinances and, prior to trial, to commit the defendant to jail or hold him to bail or other form of pretrial release.

(2) The district court has exclusive jurisdiction to examine any charge of a public offense denominated as a felony or capital offense or which may be punished by death or imprisonment in the penitentiary and to commit the defendant to jail or hold him to bail or other form of pretrial release.

SECTION 3. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:
(1) Proceedings in any court having divisions shall be valid when prosecuted in any division thereof.

(2) Any judge presiding over a division of a court mentioned in subsection (1) may hear and determine any case or question in any other division.

SECTION 4. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:
(1) For the purposes of this section the following words or phrases shall have the meaning indicated:
(a) "Proceeding" includes pretrial, trial, appellate review, or other stages of litigation;
(b) "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian;
(c) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:
1. Ownership in a mutual or common investment fund that holds securities, or a proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, or ownership of government securities is a "financial interest" only if the outcome of the proceeding could substantially affect the value of the interest;
2. An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization.

(2) Any justice or judge of the Court of Justice or master commissioner shall disqualify himself in any proceeding:
(a) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings, or has expressed an opinion concerning the merits of the proceeding;
(b) Where in private practice or government service he served as a lawyer or rendered a legal opinion in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter in controversy, or the judge, master commissioner or such lawyer has been a material witness concerning the matter in controversy;
(c) Where he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a pecuniary or proprietary interest in the subject matter in controversy or in a party to the proceeding;
(d) Where he or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:
1. Is a party to the proceeding, or an officer, director, or trustee of a party;
2. Is acting as a lawyer in the proceeding;
3. Is known by the judge or master commissioner to have an interest that could be substantially affected by the outcome of the proceeding;
4. Is to the knowledge of the judge or master commissioner likely to be a material witness in the proceeding.
(e) Where he has knowledge of any other circumstances in which his impartiality might reasonably be questioned.

(3)(a) Any justice or judge of the Court of Justice disqualified under the provisions of this section shall be replaced by the chief justice.

(b) Any master commissioner disqualified under the provisions of this section or unable to discharge the duties of his office for any other reason shall be replaced by a special commissioner who shall be appointed by the judge of the court before whom the action is pending. The special commissioner shall meet the same qualifications as a master commissioner and shall take an oath and execute a bond as the regular commissioner is required to do.

SECTION 5. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) When, from any cause, a judge of any circuit or district court fails to attend, or being in attendance cannot properly preside in an action pending in the court, or if a vacancy occurs or exists in the office of circuit or district judge, or if either party files with the circuit clerk his affidavit that the judge will not afford him a fair and impartial trial, or will not impartially decide an application for a change of venue, the circuit clerk shall at once certify the facts to the Chief Justice who shall immediately designate a regular or retired justice or judge of the Court of Justice as special judge. Any special judge so selected shall have all the powers and responsibilities of a regular judge of the court.

(2) A retired justice or judge serving as a special judge shall be compensated as provided by KRS 21A.110.

SECTION 6. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

Upon the death of a judge, or when from any cause the office is vacant, or when the judge is absent, his replacement or successor, no matter how chosen, may sign any orders of court left unsigned by his predecessor, the same as his predecessor might have done.

SECTION 7. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) The circuit and the district court shall be held in the county courthouse of each county unless otherwise ordered by the Supreme Court in which case it may be held at any other location made available by the county and owned, leased, or controlled by the county. Circuit or district court may also be held in such other locations in the county as may be convenient and approved by the Supreme Court.

(2) Every county or urban-county government shall provide such reasonably available space which would not disrupt the operation of county government as necessary in the county courthouse, or in other county facilities as permitted in subsection (1), for:

(a) A courtroom or courtrooms for the circuit and the district court;
(b) Chambers for the circuit judge and district judge or judges;
(c) Office space for the circuit and district court staffs;
(d) Facilities for the circuit clerk's operations;
(e) Jury facilities for the circuit and the district court; and
(f) Such other facilities necessary for the operation of the circuit and the district court as may be agreed upon by the county or urban-county government and the administrative office of the courts.

(3) Every city shall, upon request of the administrative office of the courts, provide such reasonably available space as necessary in the city's facilities for the operations of circuit or district court, or both. The city shall be responsible for providing space for the operations listed in subsection (2) of this section.

(4) Every agency of state government, special district, and independent agency of local government, other than a city, may, upon the request of the administrative office of the courts, provide such space as necessary in facilities owned, leased, or controlled by such organization for the operations of circuit or district court, or both. The agency may provide space for the operations listed in subsection (2) of this section.

(5) If suitable facilities for the holding of circuit or district court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in public facilities, private facilities may be rented, leased, purchased, or otherwise acquired, by the administrative office of the courts pursuant to permission granted by the Chief Justice for such acquisition and in compliance with the provisions of KRS Chapters 45 and 56.

SECTION 8. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

Counties, urban-county governments, and cities providing space for court operations pursuant to Section 7 of this Act shall also provide adequate:

(1) Lighting;
(2) Heating;
(3) Electricity;
(4) Other utilities, except telephone service; and
(5) Janitorial service

as an adjunct to the providing of space required by that section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) All records, as defined in KRS 171.410(1), which are made by or generated for or received by any agency of the Court of Justice, or by any other court or agency or officer responsible to such court created under the present Constitution, or a former Constitution, whether pursuant to statute, regulation, court rule, or local ordinance shall be the property of the Court of Justice and are subject to the control of the Supreme Court.

(2) The Supreme Court shall determine which records were generated, made, or received by or for any court.

SECTION 10. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) The Supreme Court or the administrative office of the courts may, upon appropriate agreement, utilize the technical assistance and services of the Department of Library and Archives.

(2) When there is no further need for a record of the Court of Justice, the Supreme Court shall offer the record to the Department of Library and Archives.

SECTION 11. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

All public officers, public agencies, or other persons having custody, control, or possession of court records by statute or otherwise shall be subject to the direction of the Supreme Court with regard to such records and no such officer, agency, or person shall fail to comply with any rule, regulation, standard, procedure, or order issued by the Chief Justice or his designee.

SECTION 12. KRS CHAPTER 29A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Court" means a circuit or district court of this Commonwealth and includes any judge of these courts.

(2) "Jury wheel" means any physical device or electronic system approved by the Supreme Court for the storage and random selection of the names or identifying numbers of prospective jurors.

(3) "Name" includes an identifying number.

SECTION 13. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

The Supreme Court may make and amend such procedural rules as may be necessary to implement the provisions of Sections 12 to 44 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The chief circuit judge for each county shall, not later than the first week of October of each year, appoint three (3) jury commissioners for the county to prepare a list of prospective jurors for the following year.

(2) Each jury commissioner shall be a citizen of the United States, eighteen (18) years of age or older and a resident of the county, and shall not be a party to any action pending in the Court of Justice, nor shall he hold any other public office or office in a political party.

(3) The compensation of the jury commissioners appointed under this section shall be twenty-five dollars ($25) for each day of ordered service. Each jury commissioner shall, in addition, be reimbursed for his actual and necessary expenses incurred in the performance of his duties under this chapter.

(4) Each jury commissioner shall serve for a term of one year and may not succeed himself.

(5) The duties of the jury commissioners shall be to:

(a) Cause the master jury list to be compiled;

(b) Select names of prospective jurors from the master jury list, cause them to be placed in clear plastic capsules, and cause the capsules to be placed in the jury wheel;

(c) Deliver the wheel containing the names of prospective jurors to the circuit clerk; and

(d) Deliver the key to the wheel to the chief circuit judge or another judge designated by him.

(6) The jury commission shall meet at such times and places as may be designated by the chief circuit judge.

(7) The meetings of the jury commissioners will not be open to the public.

(8) If a commissioner cannot serve without completing his service, the chief circuit judge may appoint a person of like qualifications in his place.

SECTION 15. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) All voter registration lists and property tax rolls for the county shall constitute a master list of prospective jurors. Where possible, the jury commission shall acquire copies of these lists from the official having custody of the required lists. The jury commission shall consult the master list in the manner specified by this Act in the selection of prospective jurors.

(2) Public officers or employes having custody, possession, or control of any of the lists used in making the master list shall furnish a copy of the list to the jury commission without charge.

SECTION 16. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The jury commission for each county shall consult the master list and select the names of prospective jurors for the following year.

(2) No person shall solicit any jury commissioner, directly or indirectly,to select his name for prospective juror service.

(3) In counties with a population of twenty thousand (20,000) or more, the jury commission shall place the names or identifying numbers of prospective jurors in a jury wheel as follows:

(a) If the total number of prospective jurors on the master list is one thousand (1,000) or less, the names or identifying numbers of all of them shall be placed in the jury wheel.

(b) If there are more than one thousand (1,000) prospective jurors on the master list, the jury commission shall place in the wheel one thousand (1,000) plus not less than two percent (2%) of the total number of names on the master list.

(4) In counties with a population of less than twenty thousand (20,000), the jury commission shall place the names or identifying numbers of prospective jurors in a jury wheel as follows:

(a) If the total number of prospective jurors on the master list is five hundred (500) or less, the names or identifying numbers of all of them shall be placed in the jury wheel.

(b) If there are more than five hundred (500) prospective jurors on the master list, the jury commission shall place in the wheel five hundred (500) plus not less than two percent (2%) of the total number of names on the master list.

(5) If it appears to the chief circuit judge that the names in the jury wheel will be exhausted prior to the end of the year, he shall reconvene the commissioners. They shall select and place in the jury wheel as many additional names as may be required by the order of the chief circuit judge.

(6) The jury commission shall lock the jury wheel containing the names of the prospective jurors and deliver the wheel into the custody of the circuit clerk of the county by November 15 of each year. The jury commission shall deliver the key to the wheel into the custody of the chief circuit judge of the county or other judge designated by him.

(7) The jury commission may use the names or identifying numbers of prospective jurors in carrying out its duties under this section.

(8) The jury commission may use an electronic or mechanical system or device in carrying out its duties under this section.

SECTION 17. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) Each circuit or district judge shall inform the chief circuit judge of his needs for qualified jurors.

(2) To select a grand jury or a petit jury in circuit court, the clerk shall:

(a) Draw forty (40) names at random from the jury wheel;

(b) List the names, in the order drawn, from one (1) to forty (40);

(c) Place forty (40) numbered balls in a box and shake the box;

(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.

(3) To select a petit jury for a trial in district court, the clerk shall:

(a) Draw twenty (20) names at random from the jury wheel;

(b) List the names, in the order drawn, from one (1) to twenty (20);

(c) Place twenty (20) numbered balls in a box and shake the box;

(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.

(4) The names corresponding to the numbers on the balls which have been drawn shall constitute the petit jury. When alternate jurors are permitted the last ball or balls drawn, as the case may be, will represent the alternate jurors.

(5) As jurors are excused and new jurors are required additional balls shall be drawn from the box, one for each juror required, until all of the balls in the box have been exhausted.

(6) In the event that all of the balls in the box have been exhausted the box shall be refilled utilizing the process required by subsections (1) through (4) of this Section.

(7) The chief circuit judge shall regulate the random assignment of jurors for use in circuit and district courts. Any petit juror assigned to a judge of circuit or district court may be used by any other judge of any

other branch or division of circuit or district court when jurors are needed.

(8) If a grand, petit, or other jury is ordered to be drawn, the judge thereafter shall cause each person drawn for jury service to be served with a summons requiring him to report for jury service at a specified time and place, unless otherwise notified by the court and, to be available for jury service for thirty (30) judicial days thereafter. The service of summons may be either made personally by the sheriff or sent by registered or certified mail, return receipt requested, addressed to him at his usual residence, business, or post office address. In either case, notice shall be mailed or served to the juror at least thirty (30) days before he is required to attend.

(9) When there is an unanticipated shortage of available jurors drawn from a jury wheel, the court may require the sheriff to summon a sufficient number of jurors selected at random by the judge from the jury wheel. Jurors summoned in this way need not be given the notice provided in subsection (8).

(10) Only persons duly qualified and summoned under this Act shall serve as jurors.

(11) If after making a fair effort in good faith, the judge is satisfied that it will be impracticable to obtain a jury free of bias in the county in which the prosecution is pending, he may obtain a sufficient number of jurors from some adjoining county in which the judge believes there is the greatest probability of obtaining impartial jurors. The judge shall request the chief circuit judge for the adjoining county to draw and summon as many jurors as are needed. Jurors summoned under this subsection need not be given the notice provided in subsection (8).

(12) The names of jurors drawn from the jury wheel shall be made available to the public.

SECTION 18. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The chief circuit judge shall cause to be mailed or delivered with the summons to each juror a juror qualification form accompanied by instructions to fill out and return the form by mail or hand delivery to the clerk within five (5) days after its receipt, or to be completed as otherwise directed. The juror qualification form shall be provided by the administrative office of the courts and subject to approval by the Chief Justice of the Supreme Court.

(2) The juror qualification form shall contain the prospective juror's signed declaration that his responses are true to the best of his knowledge and his acknowledgement that a willful misrepresentation of a material fact may be punished by a fine or by imprisonment, or both. Notarization of the juror qualification form shall not be required.

(3) If the prospective juror is unable to fill out the form, another person may do it for him and shall indicate that he has done so and the reason therefor.

(4) Any prospective juror who fails to return a properly completed juror qualification form as instructed may be directed by the chief circuit judge to appear forthwith to fill out a juror qualification form. At the time of his appearance for jury service, any prospective juror may be questioned by the judge or his designee, but only with regard to his responses to questions contained on the form and grounds for his excuse or disqualification. Any information thus acquired shall be noted on the juror qualification form.

(5) A prospective juror who fails to appear as directed by the judge pursuant to subsection (4) of this section shall be ordered to appear and show cause for his failure to appear as directed. If the prospective juror fails to appear pursuant to the judge's order or fails to show good cause for his failure to appear as directed by the judge, he may be punished for contempt.

(6) No person shall willfully misrepresent a material fact on a juror qualification form.

(7) The contents of juror qualification forms shall be made available to parties or their attorneys of record unless the court determines in any instance in the interest of justice that this information shall be kept confidential or its use limited in whole or in part.

SECTION 19. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The chief circuit judge or another judge designated by him shall determine on the basis of the information provided on the juror qualification form whether the prospective juror is disqualified for jury service for any of the reasons listed in subsection (2) of this section. He shall enter this determination in the space provided on the juror qualification form and on the list of names drawn from the jury wheel. The chief circuit judge shall cause each disqualified juror to be immediately notified of his disqualification.

(2) A prospective juror is disqualified to serve on a jury if he:

(a) Is not a citizen of the United States; or

(b) Is not a resident of the county; or

(c) Is unable to speak and understand the English language; or

(d) Is incapable, by reason of his physical or mental disability, of rendering effective jury service; or

(e) Has been previously convicted of a felony and has not been pardoned by the Governor or other authorized person of the jurisdiction in which he was convicted; or

(f) Is presently under indictment; or

(g) Has served on a jury within the past twelve (12) months.
(3) There shall be no waiver of these disqualifications.

SECTION 20. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:
There shall be no automatic exemptions from jury service.

SECTION 21. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:
(1) Upon the request of a prospective juror prior to his assignment to a trial court, the chief circuit judge, or after his assignment to a trial court, the trial judge may excuse such juror upon a showing of undue hardship, extreme inconvenience or public necessity.
(2) In his discretion the judge may excuse a juror from service entirely or may postpone the juror's service temporarily. Whenever possible the judge shall favor temporary postponement of service over permanent excuse. When excusing a juror, the judge shall record the juror's name, as provided in Section 19, and his reasons for granting the excuse.

SECTION 22. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:
The contents of any records or papers used by the jury commission or the clerk in connection with the selection process and not required to be made public under this chapter shall not be disclosed, except in connection with the preparation or presentation of a motion under the Rules of Civil Procedure or the Rules of Criminal Procedure.

SECTION 23. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:
After the jury wheel is emptied and refilled and all persons selected to serve as jurors have been discharged, all records and papers compiled in the selection process shall be preserved by the circuit clerk for the period prescribed by the Supreme Court.

SECTION 24. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:
In any twelve (12) month period, a person shall not be required to:
(1) Serve or attend court for prospective service as a petit juror more than thirty (30) court days except when necessary to complete service in a particular case; or
(2) Serve on more than one grand jury; or
(3) Serve as both a grand and petit juror except as provided in Section 37 of this Act.

SECTION 25. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:
At the conclusion of his period of service as required by this Act, each juror shall be discharged.

SECTION 26. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:
(1) A person summoned for jury service who fails to appear as directed shall be ordered by the court to appear forthwith and show cause for his failure to comply with the summons. If he fails to show good cause for noncompliance with the summons, he may be punished for contempt.
(2) A juror who fails to give attention at court, or who leaves the courthouse while the court is in session, or who otherwise fails to complete jury service, without leave of the court, may be punished for contempt.

SECTION 27. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:
(1) An employer shall not deprive an employe of his employment, or threaten or otherwise coerce him with respect thereto, because the employe receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service.
(2) Any employer who violates subsection (1) of this section is guilty of a Class B misdemeanor.
(3) If an employer discharges an employe in violation of subsection (1) of this section, the employe may within ninety (90) days of such discharge bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employe with full seniority and benefits. Damages recoverable shall not exceed lost wages. If he prevails, the employe shall be allowed a reasonable attorney's fee fixed by the court.

SECTION 28. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:
(1) All jurors in circuit and district court shall be paid five dollars ($5.00) per day for jury service. In addition thereto, they shall be paid seven dollars and fifty cents ($7.50) per day as reimbursement of expenses incurred, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by such juror.

(2) Persons who appear in court in response to a summons for jury duty and who are not relieved from jury service shall receive full compensation for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service.

SECTION 29. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The sheriff, city police or city marshal, as appropriate, shall be responsible for meals, housing, and other incidental needs of grand jurors and petit jurors in circuit court and in district court when the jurors are kept overnight or otherwise sequestered when ordered to do so by the judge of the court for which the jurors were summoned. The expenses for such services shall be borne by the Court of Justice and such officer shall be reimbursed in accordance with regulations issued by the administrative office of the courts.

(2) The sheriff, city police or city marshal, as appropriate, shall be responsible for the transportation of jurors and other authorized persons to views of the scene or other locations authorized by the court pursuant to Section 42 of this Act. Excepting views conducted under the Eminent Domain Act of Kentucky, in all other cases the expenses for such services shall be borne by the Court of Justice and such officer shall be reimbursed in accordance with regulations issued by the administrative office of the courts.

(3) The sheriff, city police or city marshal, as appropriate, shall be responsbile for providing any specialized security personnel, equipment, and services which the judge, with the consent of the Chief Justice, shall deem necessary for the conduct of a trial in which the judge believes that special security precautions are necessary or desirable. The expenses for such services shall be borne by the Court of Justice and such officer shall be reimbursed in accordance with regulations issued by the administrative office of the courts. In such cases the judge may also request the Chief Justice to provide the services of the Kentucky state police to ensure proper security precautions relating to the case.

SECTION 30. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

The court may adjourn the whole or part of the petit jury to any day of their required periods of service, but they shall not be paid for the time they stand adjourned. The grand jury may be adjourned in like manner without pay.

SECTION 31. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

A grand jury shall consist of twelve (12) persons, nine (9) of whom concurring, may find an indictment.

SECTION 32. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) A regular grand jury shall be summoned upon the order of the chief circuit judge. The grand jury shall be convened at least once every four (4) months at such time as may be designated by the circuit court. The court may require the grand jury to convene more often if the ends of justice or the needs of the county so require. The court may require the grand jury to convene if the Commonwealth's or county attorney certifies to the court that there are defendants who have been bound over to the grand jury and that there is a need for the grand jury to consider the return of any indictments.

(2) The Chief Justice may authorize any chief circuit judge to impanel an additional regular grand jury upon a showing that a single grand jury cannot handle the volume of business before the court.

(3) A regular grand jury shall remain in session until discharged by the court but shall not remain in session longer than twenty (20) days of actual court attendance except when necessary to complete work on a single case in which testimony has already been taken.

SECTION 33. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) Any chief circuit judge may summon for cause a special grand jury to deal with a situation requiring lengthy investigation which cannot be adequately handled during the term of the regular grand jury.

(2) A special grand jury shall remain in session until discharged by the court, but shall not remain in session longer than ninety (90) days, provided, however, that a special grand jury may be extended for additional ninety (90) day periods on the written order of the chief circuit judge.

SECTION 34. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

If a juror selected is incapable of serving as a grand juror but capable of serving as a petit juror, the judge may, for good cause shown, release the juror from grand jury service and retain him as a petit juror.

SECTION 35. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

The court shall swear the grand jury using an oath prescribed by the Supreme Court.

SECTION 36. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

The grand jurors shall elect one (1) of their members to be foreman. The foreman shall administer an oath, prescribed by the Supreme Court, to each witness who testifies before the grand jury.

SECTION 37. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

At any time for cause shown, the court may excuse a grand juror either temporarily or permanently and may swear another grand juror from a current jury panel in place of the one excused. The discharge of any such grand juror shall in no way or manner affect any indictment found by the grand jury as it was composed either before or after such discharge. If it is impossible to fill the vacancy on the grand jury from a current jury panel, the chief circuit judge may summon, using the procedure in subsection (9), Section 17 of this Act, such number of prospective jurors as deemed necessary for the purpose.

SECTION 38. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) Defendants shall have the right to a jury trial in all criminal prosecutions in the circuit and district courts in which there is a possible penalty of imprisonment or of a fine in excess of two hundred and fifty dollars ($250).

(2) There shall be no right to a jury trial in civil actions in which the amount in controversy does not exceed two hundred and fifty dollars ($250).

(3) Nothing in this section shall be construed to restrict the power of the judge to punish for contempt of court.

SECTION 39. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) Juries for all trials in circuit court shall be composed of twelve (12) persons. Juries for all trials in district court shall be composed of six (6) persons.

(2) In circuit court, at any time before the jury is sworn, the parties with the approval of the court may stipulate that the jury shall consist of any number less than twelve (12), except that no jury shall consist of less than six (6) persons.

(3) A unanimous verdict is required in all criminal trials by jury. The agreement of at least three-fourths (3/4) of the jurors is required for a verdict in all civil trials by jury in circuit court. The agreement of at least five-sixths (5/6) of the jurors is required for a verdict in all civil trials by jury in district court.

SECTION 40. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The voir dire examination of petit jurors shall be conducted in the manner prescribed by the Supreme Court.

(2) The parties shall have the right to challenge jurors as follows:

(a) There shall be an unlimited right to challenge jurors for cause; and

(b) The number of peremptory challenges shall be prescribed by the Supreme Court.

(3) The judge may select alternate jurors. The procedures for the use of alternate jurors shall be prescribed by the Supreme Court.

SECTION 41. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

The court shall swear the petit jurors using an oath prescribed by the Supreme Court.

SECTION 42. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) If the jury is permitted to separate, either during the trial or after the case is submitted to them, they shall be admonished by the court that it is their duty not to converse with, nor allow themselves to be addressed by, any other person on any subject of the trial; and that, during the trial, it is their duty not to form or express an opinion thereon, until the case is finally submitted to them.

(2) No officer, party to an action pending, or his attorney or attorneys shall, without leave of the court, converse with the jury or any member thereof upon any subject after they have been sworn.

(3) When necessary the judge may authorize the jury to view the real property which is the subject of the litigation, or the place in which any material fact occurred, or the place in which the offense is charged to have been committed.

SECTION 43. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) When the case is finally submitted to the jury, they shall retire for deliberation. When they retire, they shall be kept together in some convenient place, under the charge of an officer, until they agree upon a verdict or are discharged by the court, subject to the Supreme Court rules permitting them to separate temporarily at night and for their meals. The officer having them under his charge shall not allow any communications to be made to them, nor make any himself, except to ask them if they have agreed upon their verdict, unless by order of the court; and he shall not, before their verdict is rendered, communicate to any person the state of their deliberations, or the verdict agreed upon.

(2)(a) The jury may be discharged by the court on account of the sickness of a juror, or other accident, calamity or circumstance requiring their discharge; or, by consent of both parties; or, after they have been kept together until it satisfactorily appears that there is no probability of their agreeing.

(b) Cases in which the jury are discharged without making a verdict shall be tried again at such time as the court may direct.

(3) The procedure for rendering the verdict shall be:

(a) When the jury have agreed on their verdict, the verdict shall be written and signed by the foreman.

(b) When a verdict is rendered by less than the whole jury, it shall be signed by all the jurors who agree to it.

(c) The foreman shall hand the verdict to the judge who shall read the verdict and then make inquiry of the jury as to whether it is their verdict.

(d) When the verdict is announced either party may require that the jury be polled, which is done by the judge asking each juror if it is his verdict.

(e) If more than the number of jurors required by Section 39 of this Act, as appropriate to the type of case being tried, answers in the negative, the jury must be sent out for further deliberation.

(f) If no disagreement is expressed or, in an appropriate case, an insufficient number disagree, the verdict is complete and the jury shall be discharged from the case.

SECTION 44. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

Any willful violation of Sections 12 through 44 of this Act for which a penalty is not otherwise provided by statute shall be punishable as a Class A misdemeanor.

SECTION 45. KRS CHAPTER 30A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) Each circuit judge may appoint a secretary for his circuit.

(2) Each secretary shall serve at the pleasure of the judge.

(3) The secretary shall meet the qualifications for the position established by the judicial personnel system.

(4) The secretary shall be compensated according to the salary schedule established for such positions in the judicial personnel system.

(5) Where there is a documented and demonstrable need for secretarial services for a district court, the chief district judge may request the Chief Justice to authorize the employment of a secretary or secretaries by the chief district judge, either on a permanent or temporary basis.

(6) Where there is a documented and demonstrable need for secretarial services by a district court, the chief district judge may request the Chief Justice to authorize the employment of a secretary to be employed by the district judge, either on a permanent or temporary basis.

SECTION 46. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

The Chief Justice, through the administrative office of the courts, may authorize the appointment or employment by the Chief Judge such secretaries, court reporters, interpreters, court administrators, friends of the court, and other personnel demonstrated as being necessary to the proper and efficient operation of the Court of Justice or any court which is a component thereof. Persons so authorized to be employed or appointed shall be compensated and classified according to the judicial personnel system.

SECTION 47. KRS CHAPTER 31A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) A master commissioner may be appointed for each county within a judicial circuit.

(a) In single-judge circuits the appointment shall be made by the circuit judge.

(b) In judicial circuits with more than one judge the master commissioner shall be chosen by a majority of the judges and in the event of a tie the chief circuit judge shall choose from those receiving the tie vote.

(2) The master commissioner shall meet the following requirements:

(a) He shall not hold any other paid public office, elected or appointed; and

(b) He shall be governed by such rules not inconsistent with the statutes of the Commonwealth as may be set by the Supreme Court and by the court employing him.

(3) The master commissioner shall serve at the pleasure of the court as follows:

(a) In a single-judge circuit the master commissioner shall serve at the pleasure of the circuit judge, but in no case shall his term exceed four (4) years without reappointment. The term of the commissioner shall automatically terminate following the death, resignation, or permanent replacement of the circuit judge who appointed him.

(b) In a judicial circuit with more than one judge the master commissioner shall serve at the pleasure of the judges of the circuit, but in no case shall his term exceed four (4) years without reappointment. The master commissioner may be removed at any time by a majority vote of the judges of the circuit and in the event of a tie the decision shall be made by the chief circuit judge.

(4) The master commissioner shall be compensated by fees as provided by rule of the Supreme Court.

(5) The master commissioner shall maintain his office at such locations and during such hours as the chief circuit judge shall direct.

(6) The master commissioner shall perform such functions, including those of a receiver, as may be directed by an appropriate order of court.

(7) The master commissioner may have such deputies and assistants, approved by order of the chief circuit judge, as are necessary to perform the function of his office.

(8) The Supreme Court may make such rules, regulations, and accounting procedures as it may deem necessary for the appointment, conduct, duties, and other matters relating to the master commissioner or receiver.

SECTION 48. A NEW SECTION OF KRS CHAPTER 31A IS CREATED TO READ AS FOLLOWS:

The master commissioner shall execute a bond, with surety approved by the court. The bond shall be recorded in court. He shall execute a special bond when required by the court and no action shall be maintained on his general bond for matters covered by a special bond.

SECTION 49. A NEW SECTION OF KRS CHAPTER 31A IS CREATED TO READ AS FOLLOWS:

The master commissioner shall take an oath that he will faithfully and honestly discharge the duties of his office.

SECTION 50. A NEW SECTION OF KRS CHAPTER 31A IS CREATED TO READ AS FOLLOWS:

(1) When the master commissioner is interested as an attorney or party; or

(2) When there is other conflict of interest; or

(3) When he is otherwise unable to discharge the duties of his office for any reason;

the judge of the court before whom the action is pending shall appoint a special commissioner, who shall meet the same qualifications as a master commissioner, and require him to take an oath and execute a bond as the regular commissioner is required to do.

SECTION 51. A NEW SECTION OF KRS CHAPTER 31A IS CREATED TO READ AS FOLLOWS:

(1) Receivers, except as provided in subsection (2) of this section, may be appointed under the same terms and conditions as a master commissioner.

(2) Except for personal representatives, guardians, curators and committees of persons of unsound mind, neither a party to an action, nor his attorney, nor any person interested therein, shall be appointed as a receiver unless by agreement of the parties.

SECTION 52. A NEW SECTION OF KRS CHAPTER 31A IS CREATED TO READ AS FOLLOWS:

The master commissioner or receiver may use any proof reduced to writing and signed by his predecessor, and may execute any order or judgment which it was the duty of his predecessor to have executed, and which remains unexecuted.

SECTION 53. A NEW SECTION OF KRS CHAPTER 425 IS CREATED TO READ AS FOLLOWS:

(1) On the motion of any party to an action who shows that he has, or probably has, a right to, a lien upon, or an interest in, any property or fund, the right to which is involved in the action, and that the property or fund is in danger of being lost, removed or materially injured, the court may appoint a receiver, or order the master commissioner to take charge of the property or fund during the pendency of the action, and may order and coerce the delivery of it to him. The order of a court appointing or refusing to appoint a receiver, shall be deemed a final order for the purpose of an appeal; Provided, that such order shall not be superseded.

(2) The receiver or master commissioner has, under the control of the court, power to bring and defend actions, respecting the property, to take and keep possession of the property, to receive rents, collect debts and generally to do such acts respecting the property as the court may authorize.

(3) Any income accruing during the pendency of proceedings under this section shall follow the property upon final disposition of the case.

SECTION 54. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) If an accused is confined in a detention facility at the time of his trial, he shall be delivered to the courtroom and returned to the facility during any recess of the trial in accordance with the following provisions, unless otherwise ordered by the court:

(a) If he is lodged in a city jail in the county where the trial is to be held, the city police shall carry out this duty.

(b) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty.

(c) In all other cases the sheriff of the county where the trial is to be held shall carry out this duty.

(2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with these exceptions:

(a) If he is sentenced to a facility which is operated by a city within the county where the trial is held, the city police shall deliver him to the proper facility.

(b) In the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

SECTION 55. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70).

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.25
(d) Preparing an attestation	.50
(e) Issuing orders of attachment; garnishment; writ of possession after judgment	10.00
(f) Service of process (per process)	3.00
(g) Mileage for service of process (per mile)	.14

(3) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice.

(4) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(5) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

SECTION 56. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The fee for filing an appeal from a district court civil matter in the circuit court shall be forty-five dollars ($45). This fee shall be in lieu of the filing fee required by subsection (1) of Section 103 of this Act.

(2) In the case of a counter claim or cross claim that exceeds the jurisdiction amount of district court requiring transfer to circuit court, an additional fee of forty-five dollars ($45) shall be paid by the party filing the counter claims or cross claims. This fee shall be in lieu of the filing fee required by subsection (1) of Section 55 of this Act.

(3) In the case of a counter claim or cross claim that exceeds the jurisdictional amount for which the lessened fee provided for by subsection (2) of Section 58 of this Act but which is not greater than the jurisdiction of district court an additional fee of fifteen dollars ($15) shall be paid by the party filing such counter claims or cross claims.

SECTION 57. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) Court costs for a criminal case in the circuit court shall be fifty dollars ($50).

(2) Additional costs shall be assessed in circuit court criminal matters as follows:

(a) Preparing an attestation	$ .50
(b) Preparing a certification	1.00
(c) Preparing a copy of a document (per page)	.25

(3) Taxation of costs against a defendant, upon conviction, shall be mandatory and shall not be probated or suspended.

(4) Five dollars ($5) of the cost allocated in subsection (1) shall go to the local court facility use fund.

SECTION 58. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The filing fee for a civil case in district court shall be twenty-five dollars ($25), except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be ten dollars ($10).

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10).

(c) Where the case involves a matter relating to guardianship, the fee shall be ten dollars ($10).

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10).

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10).

(2) Additional costs shall be assessed in district court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing an attestation	.50
(c) Preparing a certification	1.00
(d) Providing a copy of a document (per page)	.25
(e) Issuing orders of attachment; garnishment; writ or possession after judgment	10.00
(f) Service of process (per process)	3.00
(g) Mileage for service of process (per mile)	.14

(3) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice.

(4) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

SECTION 59. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) Court costs for a criminal case in the district court shall be twenty dollars ($20).

(2) Additional costs shall be assessed in district court criminal matters as follows:

(a) Preparing an attestation	$ .50
(b) Preparing a certification	1.00
(c) Preparing a copy of a document (per page)	.25

(3) Taxation of costs against a defendant, upon conviction, shall be mandatory and shall not be probated or suspended.

(4) Five dollars ($5) of the cost allocated in subsection (1) shall go to the local court facility use fund.

SECTION 60. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The following dispositions shall be made of the district court filing fee authorized by subsection (1) of Section 58 of this Act:

(a) Local court facility use fund	$13.00
(b) Legal process tax	7.00
(c) Law library tax	1.00
(d) Court security fund	4.00

(2) The following dispositions shall be made of the diminished filing fee in certain district court matters as authorized by subsections (a), (b), (c), (d) and (e) of subsection (1) of Section 58 of this Act:

(a) Local court facility use fund	$7.00
(b) Legal process tax	2.00
(c) Law library tax	1.00

(3) Additional costs in district court civil cases authorized by subsections (2)(a), (b), (c), (d), and (e), and (4) of Section 58 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(4) Additional costs in district court civil cases authorized by subsections (2)(f) and (g) of Section 58 of this Act shall be paid, to the sheriff or other officer serving the process.

(5) Costs authorized by subsection (3) of Section 58 of this Act shall be paid to the circuit clerk.

(6) Costs and additional costs authorized by Section 59 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law except as provided by subsection (4) of Section 59.

(7) The legal process tax provided by this section shall be placed in the Kentucky State Treasury as provided by law.

SECTION 61. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The following dispositions shall be made of the circuit court filing fee authorized by subsection (1) of Section 55 of this Act:

(a) Local court facility use fund	$35.00
(b) Legal process tax	30.00
(c) Law library tax	1.00
(d) Court security fund	4.00

(2) Additional costs in circuit court civil cases authorized by subsections (2)(a), (b), (c), (d), and (e) and (4) of Section 55 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(3) Additional costs in circuit court civil cases authorized by subsections (2)(f) and (g) of Section 55 of this Act shall be paid to the sheriff or other officer serving the process.

(4) Costs authorized by subsection (3) of Section 55 of this Act shall be paid to the circuit clerk.

(5) The appeal fee authorized by Section 56 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(6) Costs and additional costs authorized by Section 57 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law except as provided in subsection (4) of Section 57.

(7) The legal process tax provided by this section shall be placed in the Kentucky State Treasury as provided by law.

SECTION 62. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in the state treasury a "Local Court Facility Use Fund" consisting of the moneys derived from that portion of circuit and district court filing fees and criminal court costs assigned to the fund by statute.

(2) The moneys in this fund shall not lapse and shall be returned to the local unit of government which provides court facilities utilized by the Court of Justice in direct proportion to the moneys generated by the court utilizing the facility.

(3) Where an adequate local facility is not available or is not made available, such funds as would have gone to a local unit of government shall be used by the administrative office of the courts to rent or otherwise acquire suitable facilities for the holding of court in the county concerned.

SECTION 63. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The "Local Court Facility Use Fund" shall be administered by the secretary of the executive department for finance and administration, or his designee. The secretary shall promulgate regulations relating to the administration of the fund, including, but not limited to:

(1) Mechanisms for the return of funds to local units of government;

(2) Procedures for the transfer of funds to the administrative office of the courts in the event a local unit of government does not or cannot provide necessary space.

SECTION 64. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

There is hereby created in the state treasury a "Court Security Fund" consisting of the moneys derived from that portion of circuit and district court filing fees assigned to the fund by statute. Moneys in this fund shall not lapse. The purpose of the fund shall be to compensate sheriffs, local police agencies, and city marshals for providing security personnel and services to the Court of Justice for a portion of the costs incurred in the provision of such personnel and services.

SECTION 65. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

Compensation of sheriffs and other law enforcement officers or agencies for attending court shall be as follows:

(1) Compensation shall be provided only for the actual time for which the sheriff or other officer is ordered to be physically present in the courtroom or is ordered to be physically present to discharge a duty ordered by the chief circuit judge, chief district judge, or judge of the court of appeals, as appropriate.

(2) Compensation shall not be provided for more than one sheriff or other officer per courtroom unless the need for additional personnel is certified in writing by the chief circuit judge, chief district judge, or judge of the court of appeals, as appropriate and the utilization of additional personnel is approved by the chief justice, or his designee. In the event of an emergency of such nature precluding contacting the chief justice or his designee, the chief circuit judge, chief district judge, or judge of the court of appeals may authorize such assignment of additional personnel for a period not to exceed twenty-four (24) hours.

(3) Where a single sheriff or other law enforcement officer serves more than one court or courtroom during a single day he shall be paid as if he had served only one courtroom during that day. Dual compensation for service during a single day shall not be permitted.

(4) Time, for compensation purposes, shall be computed as the actual time spent in the courtroom pursuant to court direction or order and the actual time spent in other service to the court as directed or ordered by the appropriate judge.

(5) Time spent in court service by a sheriff or other law enforcement officer shall be certified by the judge of the court which the officer attended and by the chief judge of the circuit court, if the service was to the circuit court, or by the chief judge of the district court, if the service was to the district court.

(6) Compensation shall be at the following rates:

(a) For the first three (3) hours of service in a single day; ten dollars ($10).

(b) For service beyond three (3) hours, such additional service shall be compensated at the current federal minimum wage. Compensation for such service shall be pro-rated for the actual number of minutes service within a given hour.

SECTION 66. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The "Court Security Fund" shall be administered by the secretary of the executive department for finance and administration, or his designee. The secretary shall promulgate regulations relating to the administration of the fund, including, but not limited to:

(1) Criteria for local law enforcement officers and agencies to receive funding;

(2) Mechanisms for return of funds to such local agencies and officers.

SECTION 67. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

There is hereby created in the state treasury a "Law Library Tax Fund," consisting of the moneys derived from that portion of circuit and district court filing fees assigned to the fund by statute. The moneys in this fund shall not lapse. The purpose of the fund shall be to return to the county of origin for the operation of the law library including, but not limited to:

(1) Purchase of books;

(2) Maintenance of current services on legal publications and books;

(3) Upgrading of library facilities; and

(4) Other necessary expenses in the operation and maintenance of the law library.

SECTION 68. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The "Law Library Tax Fund" shall be administered by the secretary of the executive department for finance and administration, or his designee. The secretary shall promulgate regulations relating to the administration of the fund.

SECTION 69. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Any judge of any court may appoint an interpreter for any party, witness, or for any other appropriate individual in any matter properly before the court which he presides and may authorize payment for such an interpreter out of the state treasury.

(2) In the event that a person has been detained in police custody or has been arrested an interpreter shall be provided prior to any interrogation or taking of a statement from the person provided the court determines he meets the criteria set forth in Section 71 of this Act.

(3) Any statement made by a person who is entitled to the services of an interpreter under subsection (2) of this section to a law enforcement officer may be used as evidence against that person only if the statement was made, offered or elicited in the presence of a qualified interpreter. This subsection shall in no way deny a person the right to make a voluntary confession.

(4) If the judge, or any other person, believes that a person claiming to be entitled to an interpreter may not actually be deaf or hearing impaired, unable to communicate in English, or otherwise not entitled to such services the judge may, on good cause shown, hold a hearing to determine the extent of the person's handicap or disability and the bona fide need for interpreting services.

(5) If it is determined that the person is not entitled to such services no portion of Sections 69 to 124 of this Act shall apply to him.

SECTION 70. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Any person appointed as interpreter for any matter before the Court of Justice shall be qualified by training or experience for the interpreting function which he is to discharge and shall meet, where applicable, all requirements established for such position.

(2) The Supreme Court may prescribe standards for appointment, qualifications, duties, and other matters relating to interpreters. In the area of providing interpreters for persons with hearing impairments as described under Section 71(1)(a) such standards may be promulgated after consulting with the Kentucky Registry of Interpreters of the Deaf and the Kentucky School for the Deaf.

(3) Such rules, regulations, and standards shall be administered by the administrative office of the courts.

SECTION 71. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) At any stage of any criminal, juvenile, or mental inquest case, or any grand jury proceeding, including probation and parole proceedings, a qualified interpreter or interpreters, to be paid out of the state treasury, shall be provided for the following categories of persons whether they are parties or witnesses:

(a) Persons who because of deafness or a hearing impairment have difficulty in readily understanding or communicating in the written or spoken English language;

(b) Persons who cannot communicate in English; and

(c) Any other person who has, in the opinion of the court, another type of disability which will prevent him from properly understanding the nature of the proceedings or substantially prejudice his rights.

(2) Upon request of the person for whom the interpreter is appointed, or on the court's own motion, an interpreter may be removed for inability to communicate with the person, or if for reasonable cause another interpreter is so desired by the person for whom the interpreter is appointed, or because the services of an interpreter are not desired by the person. If no qualified interpreter can be found who can successfully communicate with this person, he may select his own interpreter without regard to whether such interpreter is "qualified" within the meaning set forth under this statute.

(3) For the purposes of Sections 69 through 76 of this Act, the following terms shall mean:

(a) "Mental inquest" means any hearing or proceeding in which a person included in subsection (1) of this section, is involved which is held to determine that person's sanity, mental capacity, or developmental level, for legal purposes whether held to commit, change the circumstances of commitment, or to release that person.

(b) An "interpreter" in case of an individual coming within the protection of Section 71, means a person or persons who translate written and oral communications or interpret communication in such a manner as to effectively transmit information to the individual.

SECTION 72. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) In any civil case, upon approval by the court, an interpreter may be appointed. The cost for the interpreter's services shall be taxed as costs against the losing party at the conclusion of the suit, provided, however, that the judge may compensate the interpreter out of the state treasury if such is suggested by considerations of fairness and justice.

(2) The Supreme Court shall issue a schedule of fees and charges for interpreters in civil cases.

SECTION 73. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

In cases where compensation by the state is required or permitted interpreters' fees and ordinary and reasonable expenses shall be paid out of the state treasury according to the pay schedule of the judicial personnel system.

SECTION 74. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

The duties of the interpreter may include:

(1) Interpreting during court and court-related proceedings, including any and all meetings and conferences between client and his attorney;

(2) Translating or interpreting documents;

(3) Assisting in taking depositions;

(4) Assisting in administering oaths;

(5) Such other duties as may be required by the judge of the court making the appointment.

SECTION 75. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Every person who acts as an interpreter in circumstances involving the arrest, police custody or other stage in a criminal, civil, or other matter of a person coming under Section 71 of this Act shall not be examined as a witness regarding conversations between that person and his attorney, when such conversations would otherwise be subject to the attorney-client privilege, without the consent of that person.

SECTION 76. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) In the performance of his duties the interpreter may utilize electronic recording, foreign language translation, and other equipment.

(2) If the equipment sought to be used is of the type approved by the administrative office of the courts no further approval is required before the equipment may be used in court or court related matters.

(3) If the equipment is of a type for which no approval has been issued by the administrative office of the courts the use of such equipment for court or court related matter shall be approved in writing and in advance by the director of the administrative office of the courts or his designee or by the judge making the appointment.

(4) If the equipment is of a type which has been disapproved by the administrative office of the courts, it shall not be used in any court or court related matter.

(5) All equipment utilized in court or court related matters shall be in proper mechanical and working order and shall be fit for the intended use.

SECTION 77. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) As of January 1, 1978, all new equipment purchases for the Court of Justice shall be made by the Court of Justice and paid from state or other available funds.

(2) The Court of Justice may contract with a local unit of government to furnish extraordinary specialized facilities or services.

Section 78. KRS 208.200 is amended to read as follows:

(1) If in its decree the juvenile court finds that the child comes within the purview of subsections (1) or (2) of KRS 208.020, the court may, by order:

(a) Place the child on probation or under supervision in his own home or in a suitable family home or boarding home, upon such conditions as the court shall determine. Probation or supervision shall not be ordered or administered as a punishment, but as a measure for the protection, guidance and well-being of the child and his family. A child so placed on probation or supervision shall be subject to the visitation and supervision of a probation officer or a child welfare worker. Probation and supervision methods shall be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community. A child so placed on probation or supervision shall remain subject to the jurisdiction of the juvenile court until he becomes *eighteen (18)* [twenty-one (21)] years of age, unless he is discharged prior thereto by the court.

(b) Commit the child to the custody or guardianship *of the department or* of a private *institution* or public [institution or] agency [other than the department] authorized to care for such children, or *place the child* under *the custody and* the *supervision* [guardianship] of a suitable person. *All orders of commitment may include such advisory recommendations as the court may deem proper in the best interests of the child and of the public.* Such commitment *or placement* shall be until the age of *eighteen (18)* [twenty-one (21)] subject to the power of the court to *terminate the order and* discharge the child prior thereto. [, or of the] *The* governing authorities of said *department,* agency or institution *may likewise discharge the child unless the court directs otherwise.* [to do so upon] *Prior to said discharge two weeks'* notice *must be given* to the *committing* court, *to the legal representative of the child and to the county attorney of the county in which committing court presides. During the period of commitment or placement, the court may review a dispositional order and may modify or terminate such order as the court deems essential to the best interests of the child.* In committing a child to a private institution or agency the court shall select one that is approved by the department for human resources and children committed to such an institution or agency shall be subject to the visitation and supervision of a probation officer or child welfare worker.

[(c) Commit the child to the department. Such commitment shall be for an indeterminate period not to exceed the age of twenty-one (21).]

[(2) If, in its decree, the juvenile court finds that the child comes within the purview of subsection (1) or (2) of KRS 208.020, the court may dispose of the child as provided in subsection (1) of this section, except that if a child comes within the purview of paragraph (d) of subsection (1) of KRS 208.020, the court may not commit the child to the department unless the department has indicated to the court that it has facilities and funds available to care for the child and is willing to accept the commitment.]

(2) [(3)] In the event a child who has not reached his eighteenth birthday commits a new offense while *under the jurisdiction of the court or during the period of commitment* [a ward of the department,] the court shall have exclusive, original jurisdiction of the new offense [, and may modify all previous orders, including

that committing the child to the department. Nothing in this section shall limit the jurisdiction of any other court in assuming jurisdiction of wards of the department between the ages of eighteen (18) and twenty-one (21) years who have committed another public offense after attaining the age of eighteen (18)].

(3) [(4) If a child is disposed of as provided in paragraph (a) or (b) of subsection (1) of this section the court may modify or set aside its order at any time, and direct that the child be otherwise disposed of, in accordance with this chapter, except that after] *After* a child has been disposed of as provided in paragraph (a) or (b) of subsection (1) of this section he may not then be transferred to the circuit court as provided for in KRS 208.170.

(4) [(5)] If a child sixteen (16) years of age or older has been adjudicated delinquent in the commission of an offense classified as a misdemeanor or violation, the court in its discretion may order as follows:

(a) Participation in a community services work program. The work program shall be of a constructive nature designed to promote the rehabilitation of the child. The program shall be appropriate to the age level and physical ability of the child and shall be combined with counseling from a probation officer or other responsible person. The work program shall not be scheduled during such times that would interfere with educational, occupational, or religious obligations of the child. Assignment to a community services work program shall be made to a governmental or nonprofit community organization for a specified period of time, not to exceed one hundred and twenty (120) hours for a child adjudicated delinquent in the commission of a Class A misdemeanor, not to exceed eighty (80) hours for a child adjudicated delinquent in the commission of a Class B misdemeanor, and not to exceed forty (40) hours for a child adjudicated delinquent in the commission of an offense classified as a violation under the penal code. A child may be directed to participate in a community services work program as provided in this subsection for the purposes of restitution authorized by KRS 208.240.

(b) The court may impose a fine for a misdemeanor or violation offense. The imposition of a fine for a misdemeanor or violation offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay such fine.

(c) Fines shall be levied consistent with the schedule set forth below:

For a Class A misdemeanor, not to exceed $150;
For a Class B misdemeanor, not to exceed $75; and
For a violation, not to exceed $50.

When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately.

(5) [(6)] When a child has been ordered to comply with the provisions in subsection (5) above and fails to do so, the court upon motion of the prosecuting attorney or upon its own motion may require the child to show cause why he should not be held in detention for noncompliance with the court order. The court may issue an order of custody or a summons for his appearance.

(6) [(7)] Following issuance of a show cause order pursuant to subsection (6) above, unless the child can show that noncompliance was not the result of an intentional refusal to comply with the court order or not the result of a failure to make a good faith effort to comply with the court order, the court may order the child detained as follows:

(a) For a period not to exceed five (5) days if the order is imposed for the commission of a Class A misdemeanor;

(b) For a period not to exceed three (3) days if the order is imposed for the commission of a Class B misdemeanor;

(c) For a period not to exceed two (2) days if the order is imposed for the commission of a violation.

Any detention imposed for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational obligations of the child, and shall be in an approved detention facility as provided in KRS 208.130.

(7) [(8)] When in the judgment of the court a disposition stated above in subsection (5) is inadequate to aid in the rehabilitation of a misdemeanor offender, the court in its discretion may order a child sixteen (16) years of age or older who has been adjudicated delinquent in the commission of an offense classified as a misdemeanor to detention in an approved detention facility as provided in KRS 208.130 based upon the schedule set forth below:

Class A misdemeanor, 1 to 30 days;
Class B misdemeanor, 1 to 15 days;

provided, that, the court shall advise the child prior to entering its order under this subsection that the child upon demand may receive trial by jury in the *regular session of district* [quarterly] court, which trial and any appeal therefrom shall be conducted in accordance with the Rules of Criminal Procedure.

The detention of a juvenile misdemeanor offender shall not be scheduled to interfere with the educational obligations of the child. Detention may be scheduled during periods such as weekends, after school, or overnight. Any portion of a day spent in detention shall be deemed as one (1) day for the purposes of serving a detention term.

(8) [(9)] No adjudication by a juvenile court of the status of any child shall be deemed a conviction, nor shall such adjudication operate to impose any of the civil disabilities ordinarily resulting from a criminal conviction, nor shall any child be found guilty or be deemed a criminal by reason of such adjudication.

Section 79. KRS 208.540 is amended to read as follows:

Any peace officer who conveys a child from the committing court or from the detention facility of the committing court to an institution or facility operated by the department shall be allowed an amount prescribed by regulation adopted by the executive department for finance and administration calculated by the nearest traveled route, and shall be paid for all necessary expenses for feeding, lodging and transporting the child. The officer shall make out a full account of all expenses so incurred by him and give the distance traveled. The account shall be verified by the officer upon oath before the *district* [county] court and certified by the *circuit* [county] clerk to the department, for payment out of funds appropriated for the purpose. *The child's presence shall be necessary at a post-disposition proceeding only as required by court order. Expenses for transportation of a child to such a proceeding from an institution or facility operated by the department shall be paid out of the state treasury.*

SECTION 80. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided by KRS 208.194, an order of commitment or an order of protective supervision or probation made by the court in the case of a child may be modified or terminated at any time prior to expiration on the court's own initiative or on motion by:

(1) A child who is affected by an order of juvenile session of district court;
(2) The family, custodian, guardian, or legal representative of such a child;
(3) The county attorney of the county in which the committing court presides; or
(4) Any other person having an interest in the welfare of the child.

Grounds for such action may include but are not limited to allegations that there has been a substantial change of material circumstances, there exists new evidence affecting the disposition of the child, the child is no longer in need of commitment, probation, or placement, the child has not received adequate and proper treatment, the original proceedings were not conducted in the manner required by law or the public interest requires modification or termination of the order. Upon review of the child's case, the department, any agency, institution or individual responsible for the supervision, care or treatment of the child, shall divulge and communicate such information regarding the child as the court may require.

Section 81. KRS 62.170 is amended to read as follows:

(1) The commissioner for finance and administration shall secure, except for state officers required by KRS 62.160 to file bond, blanket bonds, with or without cosureties, written on a blanket position form, to cover all other officers, employes or deputies of the Commonwealth of Kentucky, *including all judges, clerks and employes of the Court of Justice,* including all other members of boards or commissions or employes of such boards or commissions, and including all superintendents, receivers or employes of penal or eleemosynary institutions managed or directed by the department of justice, department for human resources or any other department or agency of the Commonwealth of Kentucky, nothing in this paragraph shall be deemed to prohibit the securing of any such blanket position bond on a departmental, board, commission, agency or institutional basis.

(2) The commissioner for finance and administration may secure one or more excess blanket bonds, with or without cosureties, to cover selected groups of persons covered by the bond or bonds required in the preceding paragraph to provide additional coverage which he may deem necessary by the exposures indicated in accordance with the duties and responsibilities indicated by the personnel classification schedules of the department of personnel *and, for court of justice officers and personnel, by the administrative office of the courts* and in accordance with the amounts of money and property handled by the respective officers and employes.

(3) Such bond or bonds shall be written by and participated in only by insurance companies licensed by the department of insurance to do business in this state and shall be countersigned by a duly authorized licensed resident agent of the company. Such bonds may be written with or without cosureties. Further, such bonds are to be a percentage of the total risks, the department of insurance to approve the amount of the risk written by any one (1) company.

(4) The penal amount of the bond secured pursuant to this section shall be fixed by the commissioner for finance and administration in accordance with the duties and responsibilities indicated by the personnel classification schedules of the department of personnel *and, for court of justice officers and personnel, by the administrative office of the courts,* and in accordance with the amounts of money and property handled by the respective officers and employes.

Section 82. KRS 64.090 is amended to read as follows:

Sheriffs may charge and collect for the following services the following fees:

Executing and returning process	*$3.00* [$2.00]
Serving an order of court and return	*3.00* [2.00]
Summoning each witness	1.00
Summoning an appraiser or reviewer	1.00
[Each day's attendance in the county on a jury or] *A* [a]ttending a surveyor, when ordered by a court	2.00
Taking any bond that he is authorized or required to take in any action	2.00

Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six per cent (6%) on the first three hundred dollars ($300) and three per cent (3%) on the residue; when he levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case.

Taking a recognizance of a witness	$1.00
Levying an attachment	2.50

When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court.

Summoning a garnishee	*$3.00* [$2.00]
Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail, to be paid by the party convicted	7.00
Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff	7.00
Serving an order or process of revivor	2.00
Executing a writ of possession against each tenant or defendant	7.00

Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission.

Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses	6.00

Collecting militia fines and fee-bills, ten per cent (10%), to be deducted out of the fee-bill or fine.

Levying for a fee-bill	2.00
Serving a notice	2.00
Serving warrants or process of arrest in bastardy cases	6.00
Serving each order appointing surveyors of roads, to be paid out of the county levy	1.00
Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant	1.00
Like services in cases of private passways to be paid by the applicant	1.00
[Services rendered in cases in the quarterly courts, the same fees given to constables in all cases where the amount claimed is $50 or under.]	
Executing each writ of habeas corpus, to be paid by the petitioner	2.00
All services under a writ issued under KRS 381.460 to 381.570	5.00
[Attending by himself or deputy all terms of the county courts, and quarterly courts and the allowance per day, shall be allowed by the county judge and paid out of the county levy, not exceeding	5.00]
[Attending by himself or by deputy and keeping order in the circuit court, to be paid out of the state treasury, for each day	7.00]

Performing the duties of jailer, the same fees and allowances that are prescribed for jailers.

For services in summoning grand and petit jurors and performing his duties under *KRS Chapter 29A* [KRS 29.165, 29.175 and 29.280] the sheriff shall be allowed, for each person so summoned, and paid out of the state treasury the sum of	1.00

The Committee Amendment No. 1 to **HB 23** is as follows:

Amend printed copy of House Bill 23, page 14, line 13, by deleting the ":" and inserting the following:

"At the direction of the judge or the judge shall:"

Line 24, by deleting the ":" and inserting the following:

"At the direction of the judge or the judge shall:"

The Committee Amendment No. 2 to **HB 23** is as follows:

Amend printed copy of House Bill 23, page 34, line 6, after the word "shall" by deleting "Meet the follow-"

Delete all of line 7

Delete all of line 8

Delete all of line 9

Line 10 delete the following:

"(b) He shall"

The Committee Amendment No. 3 to **HB 23** is as follows:

Amend printed copy of House Bill 23, page 70, after line 13, by inserting the following:

"SECTION 83. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

Any public officer who willfully violates any provisions of the Act shall be guilty of a Class A misdemeanor and upon conviction may be removed from office."

Orders of the Day

Representative B. Richardson moved that consideration of **HB 5** be deferred and that it retain its position in Orders of the Day. Agreed.

Senate Message

Announcing passage of **SB 6.**

Announcements

Representative Romines requested that his name be added as a co-sponsor of **HB 21.**

Representative Ackerson requested that his name be added as a co-sponsor of **HB 8.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2 p.m. Wednesday, December 8, 1976.

On the roll call the vote was yeas 57-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Bevins, Blandford, Blume, Boatwright, Brinkley, Carpenter, Clapp, Clarke, Craddock, Cyrus, Donnermeyer, Dunn, Foster, Hancock, Head, Holbrook, Hopkins, Hughes, Hurst, Isler, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, Nett, O'Brien, Overstreet, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Stephens, Tobin, Thomas, R. Turner, Wible, Wooden, Yates. Nays 7-DeFalaise, Deskins, Fitzgerald, Gray, Hardwick, Imes, Priddy.

The motion to adjourn was adopted.

WEDNESDAY, DECEMBER 8, 1976

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Dr. John C. Chenault, First Christian Church, Frankfort.

The roll was called. All present except Representatives Crupper, Gay, Head, Stewart, and J. R. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of December 7, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HCR 15, by Representatives Wright, Holloway, J. Allen, Bennett, Blair, Blandford, Burnette, Deskins, Dunn, Fitzgerald, Floyd, Gay, Hardwick, Head, Holbrook, McBee, Muncy, Overstreet, Priddy, Rattliff, Siemens, and Yates: A CONCURRENT RESOLUTION petitioning the Congress of the United States to call a convention to propose an amendment to the Constitution of the United States to prohibit Congress or the President or any federal agency from withholding, withdrawing, or threatening to withhold or withdraw any federal funds from any state as a means of imposing or implementing federal policies which the federal government is not empowered under the United States Constitution to impose or implement directly.

HR 16, by Representatives Benson, Guenthner, Romines, and Stephens: A RESOLUTION urging the Department of Education to fund the pre-school programs for handicapped children in the counties of Jefferson and Fayette beyond the 1976-77 school year.

HR 17, by Representative DeMarcus: A RESOLUTION amending Rule 49 of the Rules of the House of Representatives.

HR 18, by Representative Stephens: A RESOLUTION requesting the Governor to add for consideration in the first extraordinary session of the 1976 General Assembly the subject of no-fault insurance.

HB 39, by Representatives Fitzgerald, Deskins, J. Allen, Bennett, Blandford, Brown, Burnette, Carpenter, Denham, and White: AN ACT relating to the collection of fees and costs by circuit court clerks and the appropriation of such fees.

HB 40, by Representative DeFalaise: AN ACT relating to district courts.

Report of Committees

The Committee on Cities reported **HB 27,** with Committee Amendments attached thereto, and **HB 34** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 27, AN ACT relating to pensions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) The system shall extend to and embrace police court judges and present and future survivors who are covered as of December 31, 1977 by pension plans established under KRS 26.650 or KRS 26.652 and which existed as of July 14, 1976.

(2) Within 30 days after the effective date of this Act, the city legislative body of each city with a pension plan established under KRS 26.650 or KRS 26.652 shall furnish the board a record of the period of service and contributions of each person covered by the plan, and, for any survivor who is benefiting from the

plan, the monthly pension amount being received and any other information requested by the board.

(3) Upon receiving the information required by subsection (2) of this section, the board shall credit each person with service under the system sufficient to guarantee that he or his survivors shall receive at a minimum the benefits to which he would be entitled under KRS 26.660, except that the service required for vesting shall be that required by the system rather than that required by KRS 26.650 or KRS 26.652. In addition, each individual's contributions to the plan under which he was covered as of December 31, 1977 shall be credited to his account in the system.

(4) Each person covered by the system under this section shall have the same rights and responsibilities as any other member or retiree of the system but at no additional cost to the person.

(5) Each city with a pension plan established under KRS 26.650 or KRS 26.652 as of July 14, 1976, shall pay to the board an amount equal to that which would have existed in the police judge pension fund as of December 31, 1977, if the fund contained:

(a) The actual amount paid by each police judge making contributions to the fund, and

(b) Contributions by the city equal to the amount which would have been paid if the city had contributed to the fund at the rate provided for under KRS 61.565.

(6) Within six months after the board makes its determination, each city shall pay to the board the amount computed by the board under subsection (5) of this section. Any additional cost of funding benefits provided under subsection (3) of this section shall be paid by the state.

SECTION 2. KRS CHAPTER 24A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

If a person covered by a pension plan established under KRS 26.650 or KRS 26.653 is elected as a district court judge before January 1, 1978, the provisions of subsections (2) through (5) of Section 1 of this Act shall be carried out by the governing body of any pension plan applying to district court judges.

Section 3. This Act shall become effective January 1, 1978.

The Committee Amendment No. 1 to **HB 27** is as follows:

Amend printed copy of House Bill 27 page 2, line 6, by deleting the words "six months" by bracketing and inserting in lieu thereof the words "*five (5) years*".

The Committee Amendment No. 2 to **HB 27** is as follows:

Amend printed copy of House Bill 27 on page 1, line 7, by bracketing "14" and inserting in its place: "31";

and on page 2, line 11, by bracketing "14" and inserting in its place "31".

HB 34, AN ACT relating to the distribution of revenue generated from fees, fines, and forfeitures related to parking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

All revenue generated from fees, fines, and forfeitures related to parking shall continue to be distributed to those governmental entities receiving such fees, fines, and forfeitures on December 31, 1976, unless the fine is collected as a result of action taken in the Court of Justice.

The Committee on Health and Welfare reported **HB 15**, with Committee Amendment attached thereto, and **HB 2** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 15, AN ACT relating to health care for government employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18.410 is amended to read as follows:

(1) The commissioner of the executive department for finance and administration, upon the recommendation of the commissioner of personnel, may procure from one or more life insurance companies, [or from one or more hospitalization insurance companies,] authorized to do business in this state, a policy or policies of group life insurance insuring the lives of all or any class or classes of state employes [, or may procure a policy or policies of group hospitalization insurance covering all or any class or classes of state employes]. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that life insurance [and hospitalization insurance] may be made available for state employes, except that the procuring [of each] is permissive.

(2) The term "state employe," for purposes of KRS 18.410 to 18.440 *and Section 2 of this Act*, shall mean a person who is regularly employed by any department, board, agency or branch of state government, and who is also a contributing member of any one of the retirement systems administered by the state provided, however, that any federally funded time-limited employe may receive insurance coverage.

(3) The term "premiums," for the purposes of KRS 18.410 to 18.440 *and Section 2 of this Act*, shall mean premiums to be paid on any type of insurance authorized under KRS 18.410 to 18.440 *and Section 2 of this Act*.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

(1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been certified by the department for human resources and licensed by the department of insurance as a health maintenance organization and which is qualified under the requirements of the United States Department of Health, Education and Welfare.

(2) The commissioner of the executive department for finance and administration, upon the recommendation of the commissioner of personnel, may procure from one (1) or more hospitalization insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group hospitalization insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such hospitalization insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard hospitalization coverage or coverage by a health maintenance organization. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either hospitalization insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) The premiums may be paid by the policyholder:

(a) wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) wholly from funds contributed by the state or department, board or agency; or

(c) partly from each, except that any premium due for health maintenance organization coverage over the premium amount contributed by the state or department, board or agency for any other hospitalization insurance coverage shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(5) No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(6) The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(7) The commissioner of the executive department for finance and administration is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining hospitalization insurance and health maintenance organization coverage under the provisions of this Act.

Section 3. KRS 79.080 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been certified by the department for human resources and licensed by the department of insurance as a health maintenance organization and which is

qualified under the requirements of the United States Department of Health, Education and Welfare.

(2) Cities of all classes, [and] counties *and urban-county governments* and the agencies of cities, [and] counties *and urban-county governments* are authorized to establish and operate plans for the payment of retirement, disability, *health maintenance organization coverage,* or hospitalization benefits to their employes, and *health maintenance organization coverage or* hospitalization benefits to the immediate families of their employes. Such a plan may require employes to pay a percentage of their salaries into a fund from which *coverage or* benefits are paid, or the city, county, *urban-county government* or agency may pay out of its own funds the entire cost of the *coverage or* benefits. A plan may include a combination of contributions by employes and by the city, county, *urban-county government* or agency into a fund from which *coverage or* benefits are paid, or it may take any form desired by the city, county, *urban-county government* or agency. Each city, county, *urban-county government* or agency may make rules and regulations and do all other things necessary in the establishment and operation of such a plan.

(3) Any city, county, urban-county government or other political subdivision of the state which employs more than twenty-five persons and which provides hospitalization benefits or health maintenance organization coverage to its employes, shall annually give its employes an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(5) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(6) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.

The Committee Amendment to **HB 15** is as follows:

Amend printed copy of House Bill 15 on page 2, line 15, by deleting the words "certified by the department for human resources" and inserting in lieu thereof the words "licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board";

And on page 2, lines 15 and 16, by deleting the word "licensed" and inserting in lieu thereof the words "issued a certificate of authority";

And on page 5, line 8, by deleting the words "*certified by the department for human resources*" and inserting in lieu thereof the words "*licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board*";

And on page 5, lines 8 and 9, by deleting the word "*licensed*" and inserting in lieu thereof the words "*issued a certificate of authority*";

And on page 6, line 17, by adding the following sentence: "*Any premium due for health maintenance organization coverage over the amount contributed by the city, county, urban-county government or other political subdivision of the state which employs more than twenty-five persons, for any other hospitalization benefit shall be paid by the employe.*"

HB 2, AN ACT relating to health care malpractice claims.

WHEREAS, there currently exists a crisis in the health sciences center of the University of Louisville in the area of the cost and availability of health care malpractice liability insurance; and

WHEREAS, this crisis has made it extremely difficult for said health sciences center to attract and retain qualified professional personnel to provide quality health care and to teach, train and educate students enrolled in its educational institution in the skills of rendering medical care; and

WHEREAS, by reason of the foregoing the ability of the aforesaid health sciences center to perform its public functions and to render the public service for which it was created is in serious jeopardy; and

WHEREAS, the University of Louisville University Hospital is scheduled for completion in 1980 and an interim arrangement exists between the university and the Louisville and Jefferson County Board of Health to provide teaching hospital facilities at Louisville General Hospital including Louisville Memorial Hospital and affiliated clinics; and

WHEREAS, the General Assembly recognizes that the quality of education offered by the health sciences center of said university and the quality of the health care rendered to patients by said health sciences center and hospital staff members of the teaching hospital and its affiliated clinics of the University of Louisville are all matters that affect the health of the people of the state of Kentucky, and that the authorization of the creation of basic coverage compensation fund by said university for its benefit with funds derived by it from sources other than general tax revenues of the state, and the providing of loans to said fund by the state, when and if necessary to pay health care malpractice claims, is for a public purpose and within the providence of the Commonwealth; and

WHEREAS, unless legislative action is taken to alleviate this crisis, the quality of education offered and furnished by the aforesaid health sciences center and the quality of health care furnished at the hospital that is staffed by the faculty of the health sciences center of the University of Louisville will be substantially reduced, all of which will have a materially adverse effect on the public health of the people of this state;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

It is the purpose of this Act to promote the health and general welfare of the people of the Commonwealth by authorizing the University of Louisville to establish from its own funds other than general tax revenues a basic coverage compensation fund to assure that health care malpractice claims or judgments against it, or its agents will be satisfied. Such purpose is hereby declared to be a public purpose for which public funds may be expended.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) "Basic coverage compensation fund" means the fund which may be established by the University of Louisville for the purpose of paying claims or judgments for personal injury or death to patients resulting from any tort or breach of duty based on health care services rendered or which should have been rendered by the university or its agents. This fund shall also include all annual contributions made to the fund by the university together with any loans that may be made to it out of the state treasury from time to time.

(2) "Commissioner" means the commissioner of the executive department for finance and administration.

(3) "Agents" means members of the board of trustees of the university, its faculty, hospital staff nurses, nurses aides, volunteer workers, employes and students, including residents and interns, and all other persons involved in furnishing health care within the scope of their duties or courses of study in connection with the University of Louiville. Employed physicians and dentists are agents of the university and within the scope of their duties when rendering professional services in emergencies and other special circumstances so long as such services do not constitute private practice for which the physician or dentist derives income. Physicians employed by the university and at the same time engaged in the private practice of medicine shall maintain at their own expense the security required by KRS 304.40-330 for the purpose of insuring themselves against any claim arising out of their private practice.

(4) "University" means the University of Louisville.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees of the university may, at its election, establish a basic coverage compensation fund for the benefit and protection from liability of itself and its agents. Promptly after the board of trustees of said university has elected to establish a basic coverage compensation fund, the university shall pay to the state treasurer sums totalling $350,000.

(2) Upon receipt of the initial payment of $87,500, the state treasurer shall create a separate account to be designated as the "basic coverage compensation fund, University of Louisville" and there shall be credited to said fund the initial payment of $87,500, all income thereafter earned from the investment of said fund, all contributions thereafter made by the university and all sums loaned to said fund from the state treasury pursuant to the provisions of this Act. Unexpended and unencumbered balances in any fund created hereunder shall be carried forward and be available for expenditure in succeeding fiscal years notwithstanding the provisions of KRS 45.230 or any other provision of the Kentucky Revised Statutes. No portion of said fund

shall ever lapse to the general fund and income earned from the investment of funds standing to the credit of said account shall accrue and be credited thereto, notwithstanding the provisions of KRS 41.380 or any other provision of the Kentucky Revised Statutes.

(3) The University of Louisville shall make the initial payment of $87,500 upon action by its board of trustees as described in Section 6 of this Act. Annual payments of $87,500 shall be made thereafter until the total "basic coverage compensation fund, University of Louisville" equals the sum of $350,000, except that when the University of Louisville opens its teaching hospital, the difference between the total of all annual payments made into the basic coverage compensation fund and the sum of $350,000 shall become due and payable if the University of Louisville is to have the full benefits of this Act.

(4) The funds held in any fund created under this Act shall be expended solely in payment of claims for liability arising in favor of any patient from treatment performed or furnished, or treatment that should have been performed or furnished by the university or its agents. The liabilities which said fund shall be created to discharge are all liabilities from acts or omissions to act which may have occurred since July 1, 1976 and which may occur in the future and which no entity other than the university and its agents is or will be obligated either by law or contract to pay and discharge.

(5) No settlement shall be made of any claim for personal injury or death to any claimant arising out of the furnishing or failure to furnish medical care by the university and its agents, until and unless the board of trustees of the university, or its duly delegated agent or body has first approved of such settlement. The board of trustees of the university shall also have the right to determine whether or not an appeal shall be taken from any judgment rendered against it or its agents, when such claim is founded upon or arises out of the furnishing or failure to furnish medical care. Provided, however, that if the payment of a settlement or a judgment would involve a loan from the Commonwealth under the provisions of subsection (8) of this section or if at the time of any such proposed payment of any settlement or judgment there is in existence an outstanding loan from the Commonwealth, then any payment from said fund must also be approved by the commissioner, or his delegate.

(6) Funds held in an account created hereunder may be disbursed by the commissioner only upon the written certification of the university, or its duly designated agent, of the amount to be disbursed and the name of the person or persons to whom such funds shall be paid.

(7) Annual contributions to said fund shall be made by the university in an amount which will be not less than one hundred fifty percent (150%) of the average amounts actually paid in each year on medical malpractice claims for the five (5) years next preceding the making of the annual contribution. Provided, however, that if the university and the commissioner shall at any time in the future mutually determine that an annual contribution in a lesser amount will not impair the adequacy of the fund to satisfy existing and potential health care malpractice claims for a period of one year, then an annual contribution in such lesser amount as may be determined may be made.

(8) The university shall be solely responsible for the investigation and servicing of all claims made against it arising out of medical malpractice and all costs, expenses, and fees incurred in the investigation, servicing and defense of all such claims shall be borne and paid by the university.

(9) Claims certified to be paid by the university shall be paid in the order received by the commissioner. If any fund created hereunder shall not at any time have sufficient funds to pay all such claims, claims received after the funds are exhausted shall be paid out of the general fund of the Commonwealth upon certification of the obligation by the commissioner. Any such funds drawn from the general fund shall be repaid with interest at the legal rate by the university at the earliest practicable time as determined by the commissioner.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Any fund created hereunder may be terminated upon written application made to the commissioner by the university and a finding by the commissioner that other satisfactory and adequate arrangements have been made by the university to assure that both existing and future health care malpractice claims or judgments against it will be paid and satisfied. Upon the termination of any fund pursuant to this section, the full amount remaining in said fund upon termination less any outstanding indebtednesses shall promptly be repaid to the university.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The creation of a basic coverage compensation fund pursuant to this Act and the compliance with all other provisions of this Act shall qualify the university as a self insurer under the terms of KRS 304.40-330(4).

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The board of trustees of the University of Louisville is hereby authorized to take all action that may be necessary to avail itself of the benefits of this Act.

The Committee on Appropriations and Revenue reported **SR 4** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SJR 4, A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for expenses incurred in connection with the First Extraordinary Session of 1976 of the General Assembly, and declaring an emergency.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That there be appropriated out of the General Expenditure Fund, to the Legislative Sessions Fund, for the payment of salaries and other expenses of the First Extraordinary Session of 1976 of the General Assembly, the sum of ten thousand nine hundred twenty-five dollars per calendar day during the First Extraordinary Session of 1976.

Section 2. That there be transferred from the Monthly Expenses of Legislators' Account, to the Legislative Sessions Fund, the amount of two thousand three hundred ninety-five dollars per calendar day to be used for necessary expenses during the First Extraordinary Session of 1976.

Section 3. That there be appropriated out of the General Expenditure Fund, to the Legislative Sessions Fund, the sum of ten thousand dollars to pay for the cost of printing the Acts and Journals of the First Extraordinary Session of 1976.

Section 4. That there be appropriated out of the General Expenditure Fund, to the Legislative Sessions Fund, the sum of twenty thousand dollars to pay the cost of travel and stationery allowance for the First Extraordinary Session of 1976.

Section 5. Whereas, the General Assembly is now in session and it is necessary that funds be made available immediately, an emergency is declared to exist and this resolution shall become effective upon its passage and approval by the Governor, and shall be retroactive to include payment of compensation to personnel from and including December 1, 1976, and retroactive to include payment for necessary expenses incurred in preparation for the First Extraordinary Session of 1976 of the General Assembly.

The Committee on Labor and Industry reported **HB 28,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 28, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.730 is amended to read as follows:

(1) Income benefits for disability shall be paid to the employe as follows, subject to the maximum and minimum limits specified in KRS 342.740:

(a) For total disability, *66 2/3* [55] per cent of his average weekly wage during such disability [, and two and one-half per cent of his average weekly wage for each dependent up to a maximum of three].

(b) In all other cases of permanent partial disability, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employe, or employe disabled by an occupational disease, *income benefits* [compensation] shall be determined according to the percentage of disability, taking into account, among other things, any previous disability, the nature of the physical injury or disfigurement, the occupation of the injured employe and age at the time of injury or at the time the disability from an occupational disease began. The *income benefits* [compensation] paid therefor shall be *66 2/3* [55] per cent of the average weekly earnings of the employe at the time of his injury [and two and one-half per cent of his average weekly wage at the time of injury for each dependent up to a maximum of three], subject to the limitations contained in KRS 342.740, multiplied by the percentage of disability caused by the injury or occupational disease; provided, however, the individual entitled to benefits under permanent partial disability shall be entitled to *income benefits* [compensation] based on lost wages or body functional disability benefits, whichever is greater. *Whenever the weekly payments under this section would be less than the minimum weekly income benefit set out in subsection (1) of KRS 342.740 for total disability, the payments may be increased to that amount and the period of the payments correspondingly shortened.*

(c) For total permanent bodily loss or losses herein scheduled, after and in addition to the income benefits payable during the period of recovery, scheduled income benefits in the amount of *66 2/3* [55] per cent of the average weekly wage as follows:

BODILY LOSS	WEEKS OF DISABILITY
1. Arm	340
2. Leg	340
3. Hand	312
4. Foot	216
5. Thumb	86
6. Index finger	54
7. Middle finger	43
8. Ring finger	22
9. Little finger	16
10. Great toe	30
11. Second toe	20
12. Third toe	15
13. Fourth toe	8
14. Fifth toe	5
15. Total loss of binaural hearing	156
16. Total loss of vision of one eye	150
17. Total loss of bilateral vision	520
18. Total loss, or total loss of use, of both hands, both arms, both feet or both legs	520

19. Phalanges: For loss of distal phalanx, one-half of the income benefits for loss of the entire digit. For loss of more than the distal phalanx of a digit, the same as loss of the entire digit.

20. Two or more digits: For loss of two or more digits, or one or more phalanges of two or more digits, of a hand or foot, scheduled income benefits may be proportioned to the loss of use of the hand or foot occasioned thereby, but shall not exceed the scheduled income benefits for loss of a hand or foot.

21. Total loss of use: Scheduled income benefits for permanent total loss of use of a member shall be the same as for loss of the member.

22. Partial loss or partial loss of use: Scheduled income benefits for permanent partial loss of use of a member shall be for a period proportionate to the period benefits are payable for total loss or total loss of use of the member as such partial loss bears to total loss.

23. Loss of hearing or partial loss of bilateral vision: Scheduled income benefits for partial loss of vision in one or both eyes, or total loss of hearing in one ear, or partial loss of hearing in one or both ears shall be for a period proportionate to the period benefits are payable for total bilateral loss of vision or total binaural loss of hearing as such partial loss bears to total loss. The provisions of paragraphs (d) to (h) of subsection (2) of this section shall apply to scheduled losses of hearing.

24. In any case in which there shall be a loss or loss of use of more than one member or parts of more than one member set forth in subparagraphs 1. to 23. of this subsection, scheduled income benefits shall be for the loss of use of each such member or part thereof, with the periods of benefits to run consecutively.

25. Other losses: Proper and equitable scheduled income benefits shall be paid for serious permanent disfigurement of face, head, neck or other area normally exposed and for loss or loss of function of a major

member or organ when such disfigurement or loss is of a kind likely to handicap the employe in securing or holding employment.

26. In any case of total or partial loss of use of a member or organ, of hearing or vision, or in any case of disfigurement, determination of the period for which scheduled income benefits are payable shall not be made until the maximum of healing and of restoration function has been attained.

27. If the effects of any of the injuries, or disabilities, from occupational diseases, or losses, mentioned in this section adversely affect a workman's ability to labor, or limit his occupational opportunities to obtain the kind of work he is customarily able to do; his compensation benefits shall not be limited to the amounts provided by this section, and he shall be awarded compensation benefits under some other applicable or appropriate section of this chapter which would provide more compensation benefits for his disability.

(2) Occupational deafness means permanent partial or permanent total loss of hearing of one or both ears caused by prolonged exposure to harmful noise in employment. The following provisions shall apply exclusively to loss of hearing compensable under this subsection:

(a) No claim for scheduled income benefits shall be heard until the lapse of six full consecutive calendar months after the termination of exposure to harmful noise in employment. The time limitation for the filing of claims for occupational deafness shall not begin to run earlier than the day following the termination date of such six months' period. The time for filing claim as provided under this paragraph shall be applicable not only in respect of the last employer, but also in respect of any prior employer who may have liability to pay compensation for the occupational deafness.

(b) No employer shall be liable for the payment of scheduled income benefits for occupational deafness unless the employe claiming benefits shall have worked for such employer in employment exposing the employe to harmful noise for a total period of at least 90 days.

(c) An employer, otherwise liable under this subsection, whose employment has contributed to any extent to an employe's occupational deafness shall be liable for the full extent of the deafness of the employe, unless such employer shall establish by competent evidence (including the results of a professionally controlled hearing test) the extent of the employe's deafness as it existed prior to exposure to harmful noise in the employer's employment. Upon such showing the employer shall be liable to the employe only for the proportion of the deafness attributable to employment by him. An employer liable to the employe for the full extent of the employe's occupational deafness may implead, in a compensation proceeding on the employe's claim, any prior employer or employers in whose employment the employe had been exposed to harmful noise, and if it should be found that the impleaded employer would have been liable to the employe under this subsection, had the employe proceeded against him, under the claim being adjudicated, the employer held liable shall be entitled to an award against the impleaded employer. The impleading of an employer shall be accomplished by notice on a form prescribed by the board. Such notice shall be sent to the impleaded employer and to the board. An award may be made in favor of the employer liable to the employe, and against the impleaded employer or employers, which award may be enforced in the same manner as awards to employes. The impleaded employer or employers shall bear equal shares with the employer of the employer's liability to the employe, unless the evidence warrants a different apportionment.

(d) Losses of hearing due to industrial noise for compensation purposes shall be confined to the frequencies of 500, 1,000, and 2,000 cycles per second. Loss of hearing ability for frequency tones above 2,000 cycles per second are not to be considered as constituting disability for hearing.

(e) The percent of hearing loss, for purposes of the determination of compensation claims for occupational deafness, shall be calculated as the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1,000, and 2,000 cycles per second. Pure tone air conduction audiometric instruments, approved by nationally recognized authorities in this field, shall be used for measuring hearing loss. If the losses of hearing average 15 decibels or less in the three frequencies, such losses of hearing shall not then constitute any compensable hearing disability. If the losses of hearing average 82 decibels or more in the three frequencies, then the same shall constitute and be a total or 100 percent compensable hearing loss.

(f) In measuring hearing impairment, the lowest measured losses in each of the three frequencies shall be added together and divided by three to determine the average decibel loss. For every decibel of loss exceeding 15 decibels an allowance of one and one-half percent shall be made up to the maximum of 100 percent which is reached at 82 decibels.

(g) In determining the binaural percentage of loss, the percentage of impairment in the better ear shall be multiplied by five. The resulting figure shall be added to the percentage of impairment in the poorer ear and the sum of the two divided by six. The final percentage shall represent the binaural hearing impairment.

(h) Before determining the percentage of hearing impairment, in order to allow for the average amount of hearing loss from non-occupational causes found in the population at any given age, there shall be deducted from the total average decibel loss, one-half decibel for each year of the employe's age over 40 at the time of last exposure to industrial noise.

(i) No consideration shall be given to the question of whether or not the ability of an employe to understand speech is improved by the use of a hearing aid.

(3) The period of any scheduled income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if scheduled income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the scheduled income benefits payable on account of the subsequent disability in whole or in part would duplicate the scheduled income benefits payable on account of the pre-existing disability.

(4) When an employe, who has sustained disability compensable under this section, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of 18 or incapable of self-support; or

(b) If there are both such a widow or widower and such a child or children one-half to such widow or widower and the other half to such child or children; or

(c) If there is no such widow or widower but such a child or children, then to such child or children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750 or to both, in such proportions as the board may provide by regulation.

Section 2. KRS 342.740 is amended to read as follows:

(1) The minimum weekly income benefits for *total* disability shall not be less than 20 percent (computed to the next higher multiple of $1.00) and the maximum weekly income benefit *for total or permanent partial disability* shall not exceed 60 percent (computed to the next higher multiple of $1.00) of the average weekly wage of the state as defined herein. In any event, income benefits shall not exceed the average weekly wage of the injured employe.

(2) For the purposes of this chapter the average weekly wage of the state shall be determined by the board as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. Such average weekly wage shall be certified to the board by the Department for Human Resources in a manner prescribed by the board by regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.

(3) Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or death are increased or decreased by $1.00 or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by $2.00 or more computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in such limitations shall otherwise be made.

Section 3. KRS 342.750 is amended to read as follows:

If the injury causes death, income benefits shall be payable in the amount and to or for the benefit of the persons following, subject to the maximum limits specified in subsections (3) and (4) of this section:

(1)(a) If there is a widow or widower and no children of the deceased, to such widow or widower 50 percent of the average weekly wage of the deceased, during widowhood or widowerhood.

(b) To the widow or widower, if there is a child or children living with the widow or widower, 45 percent of the average weekly wage of the deceased, or 40 percent, if such child is not or such children are not living with a widow or widower, and in addition thereto, 15 percent for each child. Where there are more than two such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike.

(c) Two years' indemnity benefits in one lump sum shall be payable to a widow or widower upon remarriage.

(d) To the children, if there is no widow or widower, 50 percent of such wage for one child, and 15 percent for each additional child, divided among such children share and share alike.

(e) The income benefits payable on account of any child under this section shall cease when he dies, marries, or reaches the age of eighteen, or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of 22. A child who originally qualified as a dependent by virtue of being less than 18 years of age may, upon reaching age 18, continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution.

(f) To each parent, if actually dependent, 25 percent.

(g) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, 25 percent to each such dependent. If there should be more than one of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike.

(h) The income benefits of each beneficiary under paragraphs (f) and (g) above shall be paid until he, if a parent or grandparent, dies, marries, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent.

(i) A person ceases to be actually dependent when his income from all sources exclusive of workmen's compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person including workmen's compensation income benefits at any time exceeds the total annual support received by the person from the deceased employe, the workmen's compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employe. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subsection, but full payments shall not be suspended during the pendency of any proceeding to determine dependency.

(2) Upon the cessation of income benefits under this section to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(3) For the purposes of this section, the average weekly wage of the employe shall be taken as not more than the average weekly wage of the state as determined in KRS 342.740. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefit that was or would have been payable for total disability to the deceased, including benefits to his dependents.

(4) The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed 75 percent of the average weekly wage of the deceased as calculated under KRS 342.140, subject to the maximum limits in subsection (3) above. The maximum aggregate limitation shall not operate in case of payment of two years' income benefits to the widow or widower upon remarriage as provided under paragraph (c) of subsection (1) of this section, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subsection (2) of this section, but the weekly income benefits as to such remaining beneficiaries shall not exceed the weekly income benefit that was or would have been payable for total disability to the deceased. The classes of beneficiaries specified in paragraphs (a), (b) and (d) of subsection (1) shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subsection should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in paragraph (f) of subsection (1) in another class.

(5) All relations of dependency referred to in this section shall mean dependency existing at the time of the accident to the employe or at the time his disability from an occupational disease began.

(6) If death occurs as a direct result of a work related injury, and the deceased has no statutory dependents, as determined by this section, a lump sum payment of $10,000 shall be paid to his estate, in addition to the amount provided for in KRS 342.720; Provided, however that the lump sum payment shall be reduced by any income benefits previously paid on account of that injury.

The Committee Amendment to **HB 28** is as follows:

Amend printed copy of House Bill 28 on page 1, lines 6 and 21, by deleting "*66-2/3*" and inserting in lieu thereof "*65*";

And on page 2, line 20, by deleting "*66-2/3*" and inserting in lieu thereof "*65*";

And on page 11, line 3, after the word "exceed" by inserting "*65*" and by inserting brackets around "60".

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HR 7.**

Appropriations and Revenue: **HB 16, HB 30.**

Calendar

SB 8, SB 5, HB 17, HB 18, HB 19, HB 20, SB 2, HR 12, HB 21, and **HB 23** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

Representative B. Adams moved the adoption of the following Legislative Citation No. 4:

The House of Representatives of the Commonwealth of Kentucky hereby honors Bill Dawson of Warren Central High School, Bowling Green, Kentucky, for having been elected President of the Kentucky Beta Club. This body commends Bill Dawson for this outstanding achievement and extends best wishes for continued success. (Sponsored by Representative B. Adams)

Agreed.

Representative Richards moved the adoption of the following Legislative Citation No. 3:

The House of Representatives of the Commonwealth of Kentucky hereby commends the Bowling Green High School Purples football team and Coach Wilson Sears for an outstanding season. The team had a perfect 12-0 regular season record, the first unbeaten regular season record in the history of the school. This body extends best wishes to Coach Sears and the team for their winning efforts and extends best wishes for their continued success. (Sponsored by Representative Richards)

Agreed.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Kleier, **HB 1;** Representative Benson, **HB 2;** Representatives Guenthner and Romines, **HR 16;** and Representative Burnette, **HB 24.**

Representative DeMarcus moved that the rules be suspended to act upon a Resolution. Agreed.

Representative DeMarcus moved the adoption of the following **HR 17:**

HR 17, A RESOLUTION amending Rule 49 of the Rules of the House of Representatives.

WHEREAS, in many instances bills list by the section number only one or more sections of the Kentucky Revised Statutes sought to be repealed; and

WHEREAS, in the press of time during sessions of the General Assembly, and lacking adequate facilities, no member of this body has the time to find and ascertain the nature of each such section listed; and

WHEREAS, one subject included in the call of this extraordinary session illustrates the seriousness of this situation, in that it seeks to restore a section of the statutes repealed inadvertently during the 1976 Regular Session;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Rule 49 of the Rules of the House of Representatives be amended to read as follows:

Rule 49. Form of Bills. All bills introduced shall be typewritten on the Automated Legal Text Entry and Revision System of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Clerk for the use of the House until engrossed and sent to the Senate. One copy shall be used by committees; one copy shall be for the use of the press and shall be given to a person designated by the press club; and one copy shall be given to the Legislative Research Commission. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, which seek to amend existing sections of the Kentucky Revised Statutes, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the typewritten bill and on the printed bill by placing the material proposed to be eliminated in brackets. *In any bill seeking to repeal existing sections of the Kentucky Revised Statutes said sections sought to be repealed shall be set forth at length in the bill.* The Clerk shall refer to the Legislative Research Commission any bills offered for introduction not conforming with the Automated Legal Text Entry and Revision System method of preparation, or with this format for revision as to form. The Enrolling Clerk in enrolling a bill which contains deleted material appearing in brackets shall strike over such deleted matter.

Section 2. This amendment of Rule 49 of the House of Representatives shall be effective for those bills drafted and prepared subsequent to its adoption.

On the roll call the vote was yeas: 79-Ackerson, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hardwick, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, LeMaster, Little, Mann, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Tobin, R. A. Turner, Vincent, Wells, White, Wooden, Wright, Yates. Nays 12-B. Adams, Beshear, Fitzgerald, Hancock, Jones, King, Kleier, Lindsay, Mason, P. Richardson, Stephens, Wible.

HR 17 was adopted.

The following members filed Floor Amendments to Bills and Resolutions: Representative Benson, Floor Amendment No. 1 to **HB 34;** Representative Hancock, Floor Amendment No. 1 to **HB 29;** Representative Freeman, Floor Amendment No. 1 to **SB 5;** Representative Holbrook, Floor Amendment No. 1 to **HB 23.**

Recess

Representative B. Richardson moved that the House recess for fifteen minutes to allow for a meeting of the Committee on Committees and the Committee on Judiciary-Courts. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage of **SB 15.**

Orders of the Day

HB 5, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment to **HB 5.** Agreed.

Representative Gray moved the adoption of the following Floor Amendment No. 1 to **HB 5:**

Amend printed copy of House Bill 5 on page 1, line 6, after the word "destruction" by inserting the following: ", provided, however, that no such peace officer(s) shall be actively employed at any factory, mine, workshop, retail establishment, or at any other location where a strike, a slow down, a sit in, or any other type of work stoppage exists, if the employment of such peace officer(s) would result in: the expansion of the normal complement of such peace officers, the relieving of normal guards or peace officers to perform other duties, or the inception of such services".

On the roll call the vote was yeas 61-Ackerson, B. Adams, A. S. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Clapp, Clarke, Cooper, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Givhan, Gray, Hardwick, Imes Isler, Kenton, Kidd, King, LeMaster, Little, Mann, McBee, McBride, McGill, McNutt, Morris, Muncy, Pearl, Priddy, Richards, B. Richardson, Romines, Sale, Siemens, Siler, Tobin, Thomas, R. A. Turner, Wible, Wooden, Wright, Yates. Nays 20-W. Allen, Arnold, Blair, Blythe, Carpenter, Craddock, DeFalaise, DeMarcus, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Jones, Mason, P. Richardson, Robinson, Schmidt, Stephens, Vincent.

The Floor Amendment No. 1 to **HB 5** was adopted.

Representative Brown moved the adoption of the following Floor Amendment No. 2 to **HB 5:**

Amend printed copy of House Bill 5 on page 2, after line 19, by inserting the following:

"(5) Every special local peace officer appointed pursuant to this section shall execute bond in the amount of five thousand dollars ($5,000)."

On the roll call the vote was yeas 74-Ackerson, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Freeman, Givhan, Gray, Hardwick, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, LeMaster, Little, Mann, Mason, May, Maynard, McBride, McGill, McNutt, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, Siler, Stephens, Thomas, R. A. Turner, Wells, Wible, Wooden, Wright, Yates. Nays 7-B. Adams, Clapp, Foster, Hancock, Holbrook, Holloway, Tobin.

The Floor Amendment No. 2 to **HB 5** was adopted.

Representative B. Richardson moved that **HB 5,** as amended, be passed.

On the roll call the vote was yeas 73-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Gray, Guenthner, Hardwick, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 17-W. Allen, Blair, Blythe, DeMarcus, Deskins, Doss, Fitzgerald, Hancock, Holbrook, Holloway, Hopkins, Little, Maynard, Overstreet, P. Richardson, Robinson, R. A. Turner.

HB 5, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 5,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 8, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved the adoption of the Committee Amendment to **HB 8.** Agreed.

Representative Givhan moved that **HB 8,** as amended, be passed.

On the roll call the vote was yeas 77-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hughes, Hurst, Imes, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, Maynard, McBee, McBride, McGill, McNutt, Muncy, Nett, O'Brien, Pearl, Priddy, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, R. A. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 12-W. Allen, Bruce, Clarke, Deskins, Hopkins, Isler, Kenton, Little, May, Morris, Overstreet, Thomas.

HB 8, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 8**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

The following announcements concerning meetings were made:

Committee on State Government, Room 305, 8:50 a.m., December 9, 1976.

Committee om Appropriations and Revenue, Room 305, on adjournment.

Budget Hearing, Senate Chamber, 9:00 a.m., December 9, 1976.

Committee on Labor and Industry, Room 307, 10:00 a.m., December 9, 1976.

Committee on Education, Room 305, on adjournment, December 9, 1976.

Joint Committee on Judiciary-Courts, Room 327, 9:00 a.m., December 9, 1976.

Committee on Judiciary-Courts, Room 327, 11:00 a.m., December 9, 1976.

Louisville delegation meeting, Room 307, on adjournment.

Representative B. Richardson moved that the rules be suspended for Report of Committees. Agreed.

Report of Committees

The Committee on Judiciary-Court reported **HB 32** and **HB 1** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 32, AN ACT relating to district court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 24A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) The district court is a court of limited jurisdiction, it has original jurisdiction in all matters specified in this Act.

(2) The district court may be authorized by law to adjudicate the actions or decisions of local administrative agencies, special districts, or boards. Such adjudication shall not constitute an appeal but an original action.

(3) The district court has no appellate jurisdiction.

(4) The district court is a court of record.

(5) The district court is a court of continuous session. Sessions of the district court may be scheduled at such times, including nights, weekends, and holidays, and at such locations, as may be convenient, subject to the direction of the Supreme Court by rule or order.

SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
The state is divided into judicial districts, each to be composed of the following counties:
(1) First Judicial District. Ballard, Carlisle, Fulton and Hickman.
(2) Second Judicial District. McCracken.
(3) Third Judicial District. Christian.
(4) Fourth Judicial District. Hopkins.
(5) Fifth Judicial District. Crittenden, Union and Webster.

(6) Sixth Judicial District. Daviess.
(7) Seventh Judicial District. Logan and Todd.
(8) Eighth Judicial District. Warren.
(9) Ninth Judicial District. Hardin.
(10) Tenth Judicial District. Hart, Larue and Nelson.
(11) Eleventh Judicial District. Green, Marion, Taylor and Washington.
(12) Twelfth Judicial District. Henry, Oldham and Trimble.
(13) Thirteenth Judicial District. Garrard, Jessamine and Lincoln.
(14) Fourteenth Judicial District. Bourbon, Scott and Woodford.
(15) Fifteenth Judicial District. Carroll, Grant and Owen.
(16) Sixteenth Judicial District. Kenton.
(17) Seventeenth Judicial District. Campbell.
(18) Eighteenth Judicial District. Harrison, Nicholas, Pendleton and Robertson.
(19) Nineteenth Judicial District. Bracken, Fleming and Mason.
(20) Twentieth Judicial District. Greenup and Lewis.
(21) Twenty-first Judicial District. Bath, Menifee, Montgomery and Rowan.
(22) Twenty-second Judicial District. Fayette.
(23) Twenty-third Judicial District. Estill, Lee and Owsley.
(24) Twenty-fourth Judicial District. Lawrence, Johnson and Martin.
(25) Twenty-fifth Judicial District. Clark and Madison.
(26) Twenty-sixth Judicial District. Harlan.
(27) Twenty-seventh Judicial District. Knox and Laurel.
(28) Twenty-eighth Judicial District. Pulaski and Rockcastle.
(29) Twenty-ninth Judicial District. Adair, Casey, Cumberland and Monroe.
(30) Thirtieth Judicial District. Jefferson.
(31) Thirty-first Judicial District. Floyd.
(32) Thirty-second Judicial District. Boyd.
(33) Thirty-third Judicial District. Perry.
(34) Thirty-fourth Judicial District. Whitley and McCreary.
(35) Thirty-fifth Judicial District. Pike.
(36) Thirty-sixth Judicial District. Magoffin and Knott.
(37) Thirty-seventh Judicial District. Carter, Elliott and Morgan.
(38) Thirty-eighth Judicial District. Butler, Edmonson, Ohio and Hancock.
(39) Thirty-ninth Judicial District. Breathitt, Wolfe and Powell.
(40) Fortieth Judicial District. Clinton, Russell and Wayne.
(41) Forty-first Judicial District. Clay, Jackson and Leslie.
(42) Forty-second Judicial District. Calloway and Marshall.
(43) Forty-third Judicial District. Barren and Metcalfe.
(44) Forty-fourth Judicial District. Bell.
(45) Forty-fifth Judicial District. Muhlenberg and McLean.
(46) Forty-sixth Judicial District. Breckinridge, Grayson, and Meade.
(47) Forty-seventh Judicial District. Letcher.
(48) Forty-eighth Judicial District. Franklin.
(49) Forty-ninth Judicial District. Allen and Simpson.
(50) Fiftieth Judicial District. Boyle and Mercer.
(51) Fifty-first Judicial District. Henderson.
(52) Fifty-second Judicial District. Graves.
(53) Fifty-third Judicial District. Shelby, Anderson and Spencer.
(54) Fifty-fourth Judicial District. Boone and Gallatin.
(55) Fifty-fifth Judicial District. Bullitt.
(56) Fifty-sixth Judicial District. Caldwell, Livingston, Lyon and Trigg.

SECTION 3. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
Each judicial district shall have one (1) district judge, except as otherwise provided.

SECTION 4. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
The following judicial districts are entitled to two (2) district judges and shall have two (2) numbered divisions of the district court:
(1) First Judicial District.
(2) Second Judicial District.

(3) Third Judicial District.
(4) Eighth Judicial District.
(5) Ninth Judicial District.
(6) Eleventh Judicial District.
(7) Twelfth Judicial District.
(8) Thirteenth Judicial District.
(9) Fifteenth Judicial District.
(10) Eighteenth Judicial District.
(11) Twenty-first Judicial District.
(12) Twenty-seventh Judicial District.
(13) Twenty-eighth Judicial District.
(14) Twenty-ninth Judicial District.
(15) Thirty-second Judicial District.
(16) Thirty-fourth Judicial District.
(17) Thirty-fifth Judicial District.
(18) Thirty-eighth Judicial District.
(19) Forty-second Judicial District.
(20) Forty-sixth Judicial District.
(21) Forty-eighth Judicial District.
(22) Fiftieth Judicial District.
(23) Fifty-first Judicial District.
(24) Fifty-third Judicial District.
(25) Fifty-fourth Judicial District.
(26) Fifty-fifth Judicial District.
(27) Fifty-sixth Judicial District.

SECTION 5. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The following judicial districts are entitled to three (3) district judges and shall have three (3) numbered divisions of the district court:

(1) Sixth Judicial District.
(2) Fourteenth Judicial District.
(3) Seventeenth Judicial District.
(4) Twenty-fifth Judicial District.

SECTION 6. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The Sixteenth Judicial District is entitled to four (4) district judges and shall have four (4) numbered divisions of the district court.

SECTION 7. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The Twenty-second Judicial District is entitled to six (6) district judges and shall have six (6) numbered divisions of the district court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The Thirtieth Judicial District is entitled to twenty-five (25) district judges and shall have twenty-five (25) numbered divisions of the district court.

SECTION 9. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) In any county which does not have a district judge resident in the county there shall be a trial commissioner.

(2) Trial commissioners shall be appointed in the manner required by Section 113 of the Constitution of Kentucky and shall perform such duties as may be directed by the Supreme Court.

(3) Trial commissioners in district court shall be compensated as provided in the judicial personnel system.

SECTION 10. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The district court shall have exclusive jurisdiction to make final disposition of all criminal matters, including violations of county, urban-county, or city ordinances or codes, except:

(1) Offenses denominated by statute as felonies or capital offenses; and
(2) Offenses punishable by death or imprisonment in the penitentiary.

SECTION 11. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

District court shall have exclusive jurisdiction in:

(1) Civil cases in which the amount in controversy does not exceed one thousand five hundred dollars ($1,500), exclusive of interest and costs except matters affecting title to real estate and matters of equity; and

(2) Matters involving probate, except matters contested in an adversary proceeding. Such adversary proceeding shall be filed in circuit court in accordance with the Kentucky Rules of Civil Procedure and shall not be considered an appeal.

(3) Papers relating to uncontested probate matters shall be filed in the office of the county court clerk. In the event a probate matter is contested, the Supreme Court shall by rule, provide for filing duplicate papers in circuit and county clerk's offices.

SECTION 12. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The juvenile jurisdiction of district court shall be exclusive in all cases relating to minors in which jurisdiction is not vested by law in some other court.

SECTION 13. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) When sessions of district court are held in:
(a) The county courthouse or other county-owned facility;
(b) Urban-county facilities;
(c) State-owned, leased, or controlled facilities;
(d) Special district facilities; or
(e) Private facilities;
the sheriff shall be responsible for attending court, keeping order, and providing the same services to district court as are provided to the circuit court.

(2) The sheriff shall be compensated for these services in the same manner and at the same rates as for similar services rendered to the circuit court.

(3) When sessions of district court are held in city facilities the city police or city marshal, as appropriate, shall be responsible for attending court, keeping order, and providing the same services to district court as are provided by the sheriff to circuit court. Compensation for these services shall be the same as allowed to the sheriff as provided in subsection (2) of this section.

(4) If the administrative office of the courts determines that the provision of services by any law enforcement officer or agency named herein would place an undue burden on such officer or agency the administrative office of the courts may arrange with any other law enforcement officer or agency in the Commonwealth to provide such services. Compensation shall be as provided in subsection (2) of this section.

SECTION 14. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The salary of each district judge, payable out of the state treasury, shall be thirty thousand dollars ($30,000) per annum.

HB 1, AN ACT relating to district courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 24A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The state is divided into judicial districts, each to be composed of the following counties:
(1) First Judicial District. Ballard, Carlisle, Fulton and Hickman.
(2) Second Judicial District. McCracken.
(3) Third Judicial District. Christian.
(4) Fourth Judicial District. Hopkins.
(5) Fifth Judicial District. Crittenden, Union and Webster.
(6) Sixth Judicial District. Daviess.
(7) Seventh Judicial District. Logan and Todd.
(8) Eighth Judicial District. Warren.
(9) Ninth Judicial District. Hardin.
(10) Tenth Judicial District. Hart, Larue and Nelson.
(11) Eleventh Judicial District. Green, Marion, Taylor and Washington.
(12) Twelfth Judicial District. Henry, Oldham and Trimble.
(13) Thirteenth Judicial District. Garrard, Jessamine and Lincoln.

(14) Fourteenth Judicial District. Bourbon, Scott and Woodford.
(15) Fifteenth Judicial District. Carroll, Grant and Owen.
(16) Sixteenth Judicial District. Kenton.
(17) Seventeenth Judicial District. Campbell.
(18) Eighteenth Judicial District. Harrison, Nicholas, Pendleton and Robertson.
(19) Nineteenth Judicial District. Bracken, Fleming and Mason.
(20) Twentieth Judicial District. Greenup and Lewis.
(21) Twenty-first Judicial District. Bath, Menifee, Montgomery and Rowan.
(22) Twenty-second Judicial District. Fayette.
(23) Twenty-third Judicial District. Estill, Lee and Owsley.
(24) Twenty-fourth Judicial District. Lawrence, Johnson and Martin.
(25) Twenty-fifth Judicial District. Clark and Madison.
(26) Twenty-sixth Judicial District. Harlan.
(27) Twenty-seventh Judicial District. Knox and Laurel.
(28) Twenty-eighth Judicial District. Pulaski and Rockcastle.
(29) Twenty-ninth Judicial District. Adair, Casey, Cumberland and Monroe.
(30) Thirtieth Judicial District. Jefferson.
(31) Thirty-first Judicial District. Floyd.
(32) Thirty-second Judicial District. Boyd.
(33) Thirty-third Judicial District. Perry.
(34) Thirty-fourth Judicial District. Whitley and McCreary.
(35) Thirty-fifth Judicial District. Pike.
(36) Thirty-sixth Judicial District. Magoffin and Knott.
(37) Thirty-seventh Judicial District. Carter, Elliott and Morgan.
(38) Thirty-eighth Judicial District. Butler, Edmonson, Ohio and Hancock.
(39) Thirty-ninth Judicial District. Breathitt, Wolfe and Powell.
(40) Fortieth Judicial District. Clinton, Russell and Wayne.
(41) Forty-first Judicial District. Clay, Jackson and Leslie.
(42) Forty-second Judicial District. Calloway and Marshall.
(43) Forty-third Judicial District. Barren and Metcalfe.
(44) Forty-fourth Judicial District. Bell.
(45) Forty-fifth Judicial District. Muhlenberg and McLean.
(46) Forty-sixth Judicial District. Breckinridge, Grayson, and Meade.
(47) Forty-seventh Judicial District. Letcher.
(48) Forty-eighth Judicial District. Franklin.
(49) Forty-ninth Judicial District. Allen and Simpson.
(50) Fiftieth Judicial District. Boyle and Mercer.
(51) Fifty-first Judicial District. Henderson.
(52) Fifty-second Judicial District. Graves.
(53) Fifty-third Judicial District. Shelby, Anderson and Spencer.
(54) Fifty-fourth Judicial District. Boone and Gallatin.
(55) Fifty-fifth Judicial District. Bullitt.
(56) Fifty-sixth Judicial District. Caldwell, Livingston, Lyon and Trigg.

SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
Each judicial district shall have one (1) district judge, except as otherwise provided.

SECTION 3. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
The following judicial districts are entitled to two (2) district judges and shall have two (2) numbered divisions of the district court:

(1) Third Judicial District.
(2) Fourth Judicial District.
(3) Seventh Judicial District.
(4) Twentieth Judicial District.
(5) Twenty-fifth Judicial District.
(6) Twenty-seventh Judicial District.
(7) Twenty-eighth Judicial District.
(8) Thirty-second Judicial District.
(9) Thirty-fourth Judicial District.
(10) Thirty-sixth Judicial District.

(11) Forty-second Judicial District.
(12) Forty-third Judicial District.
(13) Forty-fifth Judicial District.
(14) Forty-eighth Judicial District.
(15) Forty-ninth Judicial District.
(16) Fiftieth Judicial District.
(17) Fifty-first Judicial District.
(18) Fifty-fourth Judicial District.
(19) Fifty-fifth Judicial District.

SECTION 4. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The following judicial districts are entitled to three (3) district judges and shall have three (3) numbered divisions of the district court:

(1) Second Judicial District.
(2) Fifth Judicial District.
(3) Eighth Judicial District.
(4) Ninth Judicial District.
(5) Tenth Judicial District.
(6) Twelfth Judicial District.
(7) Thirteenth Judicial District.
(8) Fourteenth Judicial District.
(9) Fifteenth Judicial District.
(10) Seventeenth Judicial District.
(11) Nineteenth Judicial District.
(12) Twenty-third Judicial District.
(13) Twenty-fourth Judicial District.
(14) Thirty-fifth Judicial District.
(15) Thirty-seventh Judicial District.
(16) Thirty-ninth Judicial District.
(17) Fortieth Judicial District.
(18) Forty-first Judicial District.
(19) Forty-sixth Judicial District.
(20) Fifty-third Judicial District.

SECTION 5. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The following judicial districts are entitled to four (4) district judges and shall have four (4) numbered divisions of the district court:

(1) First Judicial District.
(2) Sixth Judicial District.
(3) Eleventh Judicial District.
(4) Eighteenth Judicial District.
(5) Twenty-first Judicial District.
(6) Twenty-ninth Judicial District.
(7) Thirty-eighth Judicial District.
(8) Fifty-sixth Judicial District.

SECTION 6. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The Sixteenth Judicial District is entitled to five (5) district judges and shall have five (5) numbered divisions of the district court.

SECTION 7. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The Twenty-second Judicial District is entitled to seven (7) district judges, and shall have seven (7) numbered divisions of the district court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The Thirtieth Judicial District is entitled to twenty-seven (27) district judges and shall have twenty-seven (27) numbered divisions.

SECTION 9. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The salaries of the district judges, payable out of the state treasury, per annum shall be as follows:

Judicial District Population	Salary
20,000 - 29,999	$16,000
30,000 - 39,999	17,000
40,000 - 49,999	18,000
50,000 - 59,999	19,000
60,000 - 69,999	20,000
70,000 - 79,999	21,000
80,000 - 89,999	22,000
90,000 - and up	23,000

SECTION 10. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The initial population determination for compensation under Section 9 of this Act shall be based on the "Final" issue of "Current Population Reports, 1974" issued by the United States Bureau of the Census. In 1981 and thereafter, population shall be based on the decennial census.

Section 11. KRS 118A.050 is amended to read as follows:

(1) District judges shall be elected from judicial districts.

(2) In *single county* judicial districts having two (2) or more judges there shall be, for election purposes, numbered divisions corresponding to the number of district judges in the district. Each judge shall be elected at large from the entire district.

(3) In multi-county judicial districts there shall be, for election purposes, numbered divisions equal in number to the number of counties in the district and corresponding to the geographical boundaries of each county within the district. Each judge shall be elected by the people within the division in which he is a candidate.

(4) [(3)] Each numbered division of a district shall be voted upon 9and shall be tallied separately.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, December 9, 1976.

On the roll call the vote was yeas 50-Ackerson, B. Adams, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blythe, Carpenter, Clapp, Craddock, Cyrus, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Givhan, Hancock, Holloway, Hopkins, Isler, Kenton, Kleier, Mann, McBee, McGill, Muncy, Nett, O'Brien, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Thomas, R. A. Turner, Wible, Wooden, Yates. Nays 9-Deskins, Fitzgerald, Gray, Guenthner, Hardwick, Holbrook, Imes, Priddy, Romines.

The motion to adjourn was adopted.

THURSDAY, DECEMBER 9, 1976

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. Williamson Brown, Jr., Church of the Ascension, Frankfort.

The roll was called. All present except Representatives Crupper, Gay, Head, and J. R. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of December 8, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HR 19, by Representative Hughes: A RESOLUTION to adjourn the House in memory of William Kellerman, Jr.

HR 20, by Representatives Vincent, B. Adams, Bennett, Bevins, Burnette, Deskins, Foster, Richards, Thomas, and Wright: A RESOLUTION honoring the Edmonson County High School boys basketball team.

HR 21, by Representatives Wooden, Wright, Ackerson, Bendl, Bennett, Benson, Blume, Blythe, Dunn, Guenthner, Holloway, Hughes, Kidd, Kleier, Maynard, McGill, Nett, O'Brien, Priddy, Romines, Siemens, and Yates: A RESOLUTION commemorating the annual Male-Manual High School Thanksgiving Day football games.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 6.**

Counties and Special Districts: **HB 36.**

Education: **HR 16.**

Judiciary—Courts: **HB 39, HB 40.**

Labor and Industry: **HB 37, HB 38.**

State Government: **HR 15, HR 18.**

Report of Committees

The Committee on Judiciary—Statutes reported **HB 6,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 6, AN ACT relating to descent and distribution.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 391.030 is amended to read as follows:

(1) Except as otherwise provided in this chapter, where any person dies intestate as to his personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration and debts, shall pass and be distributed among the same persons, and in the proportions, to whom and in which

real estate is directed to descend, except as follows:

(a) The personal estate of an infant shall be distributed as if he had died after full age.

(b) An alien may be distributee as though he were a citizen.

(c) Personal property or money on hand or in bank to the amount of $3,500 shall be exempt from distribution and sale and shall be set apart by the county court having jurisdiction over the estate on application to the surviving spouse, to the infant children, or, if there is no surviving spouse, to his infant children surviving.

(2) The surviving spouse of any deceased person may, at any time before the property or money is set apart by the court, procure on petition from the judge of the county court having jurisdiction over administration of his estate, an order authorizing him to withdraw from any bank or other depository not exceeding five-hundred dollars ($500) belonging to the estate of the deceased. Upon presentation of the order, the bank or depository shall permit him to withdraw the sum and shall lodge the order, endorsing thereon the amount withdrawn, with the clerk of the county court, and he shall retain it in his files to be considered in connection with further proceedings in the estate and the withdrawal shall be treated as a charge against the property of the estate exempt from distribution.

(3) In the application for the setting apart of property or money under this section the surviving spouse may make his selection out of the personal property of the estate to the extent that the value of the property selected does not exceed the amount of thirty-five hundred dollars ($3,500).

(4) This section applies to cases where the husband or wife dies testate and the surviving spouse renounces the provisions of the will as provided in KRS 392.080.

The Committee Amendment to **HB 6** is as follows:

Amend printed copy of House Bill 6, on page 2, lines 4 and 5, delete "five-hundred dollars ($500)" and insert thereto "one thousand dollars ($1000)".

The Committee on Rules reported **HB 17, HB 18, HB 21** with Committee Amendments attached thereto, **SB 8** with Committee Amendment attached thereto, and SB 2 have been posted for passage in Orders of the Day, December 10, 1976.

The Committee on Rules reported **HB 20** has been recommitted to the Committee on Appropriations and Revenue.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary—Statutes: **HB 31, HB 35, SB 3.**

Elections and Constitutional Amendments: **HB 25, HB 26, HB 33.**

Appropriations and Revenue: **SB 6.**

Education: **HR 16.**

State Government: **HR 18.**

Calendar

HB 1, HB 2, HB 15, HB 27, HB 28, HB 32, HB 34, and **SR 4** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

The Speaker vacated the Chair. Speaker Pro Tempore Clapp presiding.

Representative Mann moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 41, by Representatives Donnermeyer, DeFalaise, Dietz, Isler, King, and Schmidt: AN ACT relating to mass transit authorities.

HB 42, by Representatives Donnermeyer, McBee, DeFalaise, Dietz, Isler, King, Mann, and Schmidt: AN ACT relating to mass transit authorities.

Motions, Petitions, and Communications (continued)

The following members filed Floor Amendments:

Representative Blume, Floor Amendment No. 1 to **HB 2.**

Representative B. Richardson, Floor Amendment No. 1 to **HB 21.**

Representative Hancock requested that his name be added as a co-sponsor of **HB 34.**

The Clerk announced a special meeting of the Committee on Judiciary—Statutes, Room 307, 2:00 P.M., December 13, 1976.

Representative Wooden moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Wooden moved the adoption of the following **HR 21:**

HR 21, A RESOLUTION commemorating the annual Male-Manual High School Thanksgiving Day football game.

WHEREAS, the annual Male-Manual High School football game represents the oldest high school rivalry in the United States, having begun in 1893; and

WHEREAS, the annual Male-Manual football game has developed as a Thanksgiving Day tradition; and

WHEREAS, the annual Male-Manual football game has become a community tradition of great consequence to its multitude of loyal fans; and

WHEREAS, the sight of the purple and gold, along with the red and white, has long instilled pride and excitement into the hearts of its devoted fans; and

WHEREAS, for two years the traditional Male-Manual game has been the single most profitable game for Male High School and the second most profitable one for Manual High School;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Jefferson County Board of Education is hereby urged to insure the continuation of the traditional annual Male-Manual High School football game.

Section 2. That the Jefferson County Board of Education is further urged to preserve the traditional date of Thanksgiving Day for the Male-Manual game.

Section 3. That the Clerk of the House be directed to send copies of this resolution to the Jefferson County Board of Education, Jefferson County Superintendent, and to the principals of both Male and Manual High Schools.

HR 21 was adopted by voice vote.

Representative Lindsay moved the adoption of the following Legislative Citation No. 5:

The House of Representatives of the Commonwealth of Kentucky hereby honors the Henderson County Colonels football team for their victory in completing an undefeated regular season and for winning the State 4-A football championship outside Jefferson County and for being runnerup in the overall State 4-A football championship. This body commends the team members and Coach Mojo Hollowell for this victory and extends best wishes for a continuing success. (Sponsored by Representative Lindsay) Agreed.

The Clerk announced a special meeting of the Committee on Judiciary—Courts, Room 316, December 10, 1976, 9:00 A.M.

Representative Vincent moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Vincent moved the adoption of the following **HR 20**:

HR 20, A RESOLUTION honoring the Edmonson County High School boys basketball team.

WHEREAS, the Edmonson County High School boys basketball team captured the 1976 State Basketball Championship with dedication and outstanding skill; and

WHEREAS, Coach Bo Davenport led this Cinderella aggregation to its first State Basketball Tournament, its first championship and into the hearts of all Kentuckians; and

WHEREAS, it behooves this honorable body to recognize these achievements, accomplished so handily by this small school to the delight of all who love the game of basketball;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby honor and commend the Edmonson County High School boys basketball team, Coach Davenport and his staff and Principal Johnny Vincent for winning the 1976 State High School Basketball Championship.

Section 2. That the Clerk is directed to transmit a copy of this resolution to Coach Bo Davenport and Principal Johnny Vincent of Edmonson County High School.

HR 20 was adopted by voice vote.

The Clerk announced a meeting of the Committee on Education on adjournment; Committee on Cities, Room 305, 11:00 A.M., December 13, 1976; Committee on Elections and Constitutional Amendments, Room 305, 9:00 A.M., December 10, 1976; Budget Hearing in Senate Chamber on adjournment, December 9, 1976; Committee on Appropriations and Revenue, at recess; Committee on Appropriations and Revenue, on adjournment, December 10, 1976; Committee on Labor and Industry, Room 307, 9:00 A.M., December 10, 1976.

Representative Pearl requested that his name be added as a co-sponsor of **HB 14.**

Recess

Representative B. Richardson moved that the House recess for thirty minutes for special Committee meetings. Agreed.

At the appointed hour, the Speaker Pro Tempore resumed the Chair and called the House to order.

Representative B. Richardson moved that the rules be suspended for Report of Committees and Reference of Bills and Resolutions. Agreed.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Cities: **HB 41, HB 42.**

Judiciary—Courts: **SB 15.**

Report of Committees

The Committee on Judiciary—Courts reported **HB 12,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 12, AN ACT relating to court clerks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.400 is amended to read as follows:

(1) The administration of the provisions of KRS 186.400 to 186.640 not specifically vested in the department of revenue or the *county* [circuit] clerks shall be vested in the department of transportation. The department of transportation may prescribe regulations for the enforcement of KRS 186.400 to 186.640, except that rules concerned with the functions and duties of the department of revenue provided in subsection (3) of this section shall be prescribed by the department of revenue. The department of transportation also shall enforce regulations governing the acts of the *county* [circuit] clerks and motor vehicle operators under KRS 186.400 to 186.640 and require reports which it deems necessary.

(2) The department shall provide or cause to be provided to appropriate persons or officials an adequate supply of forms for the administration of KRS 186.400 to 186.640. The style of those forms and the method of their use shall be prescribed by the department and shall be adequate to protect the safety interests of the state. The department of revenue shall prescribe the method of financial control.

(3) (a) The department of revenue shall collect all moneys due the state from the *county* [circuit] clerks for operators' licenses issued, and shall deposit those moneys with the state treasurer.

(b) At least once each year the commissioner of revenue and the commissioner of transportation shall cause a reconciliation to be made between the record of receipts by the department of revenue and the receipt of applications by the department of transportation.

Section 2. KRS 186.411 is amended to read as follows:

Whenever a person with an epileptic condition applies for a driver's license, or applies for a renewal of a driver's license, he shall present to the division of driver licensing certification by a physician that his condition is controlled by drugs, a detailment of the drugs and dosages of same which the person takes, his own statement that he has been free of any seizures for one year before the date of the application, and that he is taking the medication prescribed by his physician. The division will then issue him a letter of authorization to present to the *county* [circuit] court clerk.

Section 3. KRS 186.412 is amended to read as follows:

(1) Every person seeking a license for operation of a motor vehicle or a non-driver identification card shall apply in person to the *county* [circuit] court clerk of the county in which he resides and make application upon a form furnished by the department. The application shall contain the full name and signature, date of birth, sex, and present resident address of the applicant and briefly describe him. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked or refused, and if so, the date of and reason for the cancellation, suspension, revocation or refusal, and such other information as may be required.

(2) The department of transportation shall issue a plastic laminated operator's license bearing thereon a color photograph of the licensee, which photograph shall be taken by the *county* [circuit] clerk in such a manner that one exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413.

(3) Every applicant shall make oath to the *county* [circuit] clerk as to the truthfulness of the statements contained in the form.

(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent operator's license.

(5) Every person seeking a license for operating a motorcycle shall apply in person to the *county* [circuit] court clerk of the county in which he resides and make application in the same manner as in applying for a license for operation of a motor vehicle.

(6) Every person seeking a color photo non-driver identification card may apply in person to the *county* [circuit] clerk in the county in which he resides. Every applicant shall make oath to the *county* [circuit] clerk

as to the truthfulness of the statements contained on the form.

(7) Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo."

(8) The department shall provide on each license to operate motor vehicles or motorcycles issued a statement whereby the owner of such license may certify in the presence of two witnesses his willingness to make an anatomical gift under KRS 311.195.

Section 4. KRS 186.413 is amended to read as follows:

(1) To implement provisions of KRS 186.412 there is hereby created a commission composed of the commissioner of the executive department for finance and administration, the secretary of the department of transportation, two persons chosen by the *county* [circuit] clerk's association, and one person designated by the speaker of the house of representatives, to determine which color photo process shall be employed in issuing the licenses prescribed by KRS 186.412.

(2) The process or processes selected shall, as nearly as practical, prohibit reproduction or alteration of the license or the ability to superimpose a photograph upon such license without ready detection.

(3) To assist the commission in making its determination, the department of transportation shall promulgate regulations and standards for evaluating various processes and equipment available for such purpose, and shall afford an opportunity to each reliable and financially responsible company with such a process an opportunity to demonstrate its process and equipment.

(4) After making such studies and examining such processes and equipment, the commission shall determine the best available process and equipment at the most economical price and shall select said process and equipment for use under provisions of KRS 186.412.

Section 5. KRS 186.414 is amended to read as follows:

Applications for renewal licenses shall be according to the following schedule:

(1) Persons whose family names begin with the letters "A" through "K" inclusive, shall before August 1, 1958, apply at the office of the *county* [circuit] court clerk in the county in which he resides, and make application upon a form furnished by the department for a renewal license, which will expire on his birth month in the year 1960, and shall be renewed every two (2) years during the applicant's birth month thereafter.

(2) Persons whose family names begin with the letters "L" through "Z" inclusive shall, before August 1, 1959, apply at the office of the *county* [circuit] court clerk in the county in which he resides, and make application upon a form furnished by the department for a renewal license, which will expire on his birth month in the year 1961, and shall be renewed every two (2) years during the applicant's birth month thereafter.

(3) Any person who is a resident of this state and who has obtained an operator's license in the manner provided for in this chapter, which has not been canceled, suspended or revoked for any reason provided for in this chapter, and who is in the active service of the armed forces of the United States shall, upon written application to the *county* [circuit] court clerk of the county in which he resides, be granted an extension of his operator's license beyond the periods set forth in subsections (1) and (2) of this section. Upon application the *county* [circuit] court clerk shall issue to the applicant a written certification of operator's license extension. The extension so granted shall be effective so long as the applicant is an active member of the armed forces or six (6) years from the date of the application whichever is less.

(4) The procedure for renewing or extending a motorcycle operator's license shall be the same as required by this section for other operator's licenses. A motorcycle operator's license shall be renewed in the same manner as an operator's license.

Section 6. KRS 186.450 is amended to read as follows:

(1) Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a permanent operator's license, may make application for and obtain an instruction permit, to be issued by the *county* [circuit] court clerk in the county of the applicant's residence, and such permit shall be valid for not more than sixty (60) days. The permit holder shall have this permit in his possession and be accompanied by a licensed operator occupying the seat beside the operator at all times while operating a motor vehicle upon the highway.

(2) Any person who, except for his lack of instruction in operating a motorcycle, would otherwise be qualified to obtain a permanent motorcycle operator's license, may make application for and obtain an instruction permit, to be issued by the *county* [circuit] court clerk in the county of the applicant's residence, and such permit shall be valid for not more than sixty (60) days. The permit holder shall have this permit in his possession at all times while operating a motorcycle upon the highway.

Section 7. KRS 186.480 is amended to read as follows:

(1) The state police may examine every applicant for an operator's license or renewal of an operator's license except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless the applicant is granted written permission by the *county* [circuit] clerk of the county in which he resides, to take the examination in another county, and the state police agrees to arrange for the examination in the other county. The examination may include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning and directing traffic, his knowledge of traffic laws and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section.

(2) Any person whose operator's license is denied, suspended or revoked for cause, shall apply for reinstatement at the termination of the period for which the license was denied, suspended or revoked by submitting to the examination.

Section 8. KRS 186.490 is amended to read as follows:

The *county* [circuit] clerk of each county shall:

(1) Comply with all rules and regulations issued by the department under KRS 186.400 relating to his duties;

(2) Act for the department for the purpose of issuing temporary operator's licenses and instruction permits;

(3) Administer the oath required by KRS 186.412 to the applicant without fee;

(4) Report and remit each Monday all moneys collected during the preceding week and remit a copy of all applications taken by him during the same period to the Department of Transportation. Upon failure of any clerk to report and remit therefor more than seven (7) days after the due date, he shall pay, in addition to the amount due, a penalty of ten per cent (10%) of the amount due. Penalties collected under this section shall be paid into the state treasury as a part of the revenue collected under KRS 186.531;

(5) Keep adequate records of all moneys collected and remitted to the department; and

(6) Keep in his office at all times available to the department a record of all temporary licenses issued in his county, all denials, cancellations, suspensions, revocations or withdrawals of operator's licenses or motorcycle operator's licenses within his county and, to the extent that he is advised, of all other withdrawals of the privilege to operate a motor vehicle on the highways.

Section 9. KRS 186.495 is amended to read as follows:

The *county* [circuit] clerk of each county shall maintain an alphabetical index of all persons to whom operator's licenses and motorcycle operator's licenses have been issued in his county, which index shall be sufficient to enable the prompt locating of the complete license record of each of such persons. Such index shall at all times be available for inspection by the state police and other officers charged with the duty of enforcing highway laws.

Section 10. KRS 186.510 is amended to read as follows:

The licensee shall have his license in his immediate possession at all times when driving a motor vehicle and shall display it upon demand to the *county* [circuit] clerk or examiner, a justice of the peace, a peace officer, a member of the Kentucky state police, or a field deputy or inspector of the department of motor transportation or department of revenue. It shall be a defense to any charge under this section if the person so charged produces in court an operator's license, issued to him before his arrest and valid at the time of his arrest.

Section 11. KRS 186.531 is amended to read as follows:

(1) The cost of operator's licenses, motorcycle operator's license and permits shall be as follows:

(a) The fee for any original or renewal license, including motorcycle operator's license, shall be $4.00, except that the fee for a combination motor vehicle-motorcycle operator's license shall be $7.00;

(b) The fee for any instruction permit shall be fifty cents plus fifty cents (50¢) for preparing and acknowledging such application;

(c) The fee for a duplicate license shall be $2.00; and

(d) The fee for a non-driver's identification card shall be $2.00.

(2) The *county* [circuit] clerk shall retain fees pertaining to applications and license fees in the following manner:

(a) One dollar and seventy-five cents ($1.75) of any original and renewal license, except that the fee retained for a combination motor vehicle-motorcycle operator's license shall be $3.00;

(b) Fifty cents (50¢) for issuance of any instruction permit;

(c) Fifty cents (50¢) for preparing and acknowledging an application for an instruction permit;

(d) One dollar and twenty-five ($1.25) cents for preparing and acknowledging an application for a duplicate;

(e) One dollar and twenty-five cents ($1.25) for each non-driver's identification card; and

(f) For each original, renewal, duplicate license and non-driver's identification card, fifty cents (50¢) shall be credited to a special account within the state road fund and shall be used by the department of transportation exclusively for the purpose of issuing a photo license.

(3) The remainder of all fees, and other moneys collected by the *county* [circuit] court clerk shall be forwarded to the department of transportation.

(4) The photo licenses shall be in use and the procedures prescribed by KRS 186.412 and 186.413 shall be fully implemented by January 1, 1975.

Section 12. KRS 235.010 is amended to read as follows:

As used in this chapter unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) "Waters of this state" means any waters within the territorial limits of this state;

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(7) "Department" means the department of transportation;

(8) "Bureau" means the bureau of vehicle regulation within the department of transportation;

(9) "License" and "certificate of number" as used herein are synonymous;

(10) "Clerk" means *county* [circuit] court clerk.

Section 13. KRS 235.050 is amended to read as follows:

(1) Except as otherwise provided in this chapter, before the owner or operator of each motorboat required to be registered and numbered by KRS 235.040 may operate it or permit its operation upon the waters of this state, the owner shall apply for registration to the *county* [circuit] court clerk of the county in which he resides, except, if the motorboat is to be operated principally in a county other than the county of the owner's residence the owner may apply for registration to the *county* [circuit] court clerk of the county in which the motorboat is to be principally operated. A motorboat last registered in another state and purchased by a person for operation in this state shall be first registered in this state by and in the name of the purchaser and not in the name of the seller. The application shall be in triplicate with one copy to be retained by the *county* [circuit] court clerk, one copy to be forwarded to the division of driver licensing, and the original to constitute a temporary registration certificate valid for not more than ninety days and to be destroyed upon receipt of the permanent certified certificate. The application shall be accompanied by:

(a) A bill of sale, if the application is for registration of a new motorboat; or

(b) The owner's registration receipt if the motorboat was last registered in this state; or

(c) A bill of sale and the previous registration receipt if last registered in another state; and

(d) The annual registration fee.

(2) Motorboats shall be registered annually.

Section 14. KRS 235.070 is amended to read as follows:

(1) Every person seeking a license or certificate of number or renewal for operation of a motorboat shall apply in person to the *county* [circuit] court clerk of the county as provided in KRS 235.050 and make application on a form furnished by the division of driver licensing. The application shall contain the full name and signature, citizenship of applicant, date of birth, sex, present resident address, the make of the boat, hull identification number (HIN), if any, length, beam, motive power, maximum capacity, type of hull material, and intended use of boat. The application shall state whether the motorboat is equipped with toilet facilities and shall describe the number and type of such facilities and shall state whether the storage container or treatment or disposal system for such facilities is a type approved by regulations promulgated pursuant to KRS chapter 224. It shall also state whether the applicant has been previously licensed or registered as an owner, and if so, when and by what state or county, whether any license registration or certificate number has been canceled, suspended, revoked, refused, and if so, the date of and reason for cancellation, suspension, revocation or

refusal and such other information as may be required.

(2) Every applicant shall make oath as to the truthfulness of the statements contained in the form.

(3) The clerk shall, after determining that the applicant has complied with the law concerning applications, issue a temporary license, certificate of number or renewal thereof to be valid for not more than ninety days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent certificate from the division of driver licensing.

(4) No license for the operation of a motorboat shall be issued, if the motorboat is equipped with toilet facilities but is not equipped with a storage container or treatment or disposal system of a type approved under regulations promulgated pursuant to KRS Chapter 224.

Section 15. KRS 235.090 is amended to read as follows:

On Monday of each week the *county* [circuit] court clerk shall make a written report to the division of driver licensing which shall include the name and address of those persons who have applied for registration of motorboats, the length and type of such motorboat, and the registration fee charged and the amount of registration fee collected from the applicant. This report shall cover the period of the calendar week preceding the report. The applications for registration and the fees collected by the clerk shall be forwarded with the said report to the division of driver licensing. The clerk shall collect from each owner a fee in the sum of fifty cents for each registration in addition to the registration fee.

Section 16. KRS 235.130 is amended to read as follows:

(1) No person acting for himself or another shall buy or trade for any motorboat without receiving the certificate of number issued for that boat for the current period with a certificate of transfer indorsed thereon.

(2) It shall be the duty of the purchaser to record the indorsed certificate of number with the *county* [circuit] court clerk of the county of the purchaser's residence or in which the motorboat is to be principally operated and to pay a transfer fee of one dollar. The clerk thereupon shall forward the indorsed certificate of number and the transfer fee to the division of driver licensing. Upon receipt of the indorsed certificate the division shall thereupon issue a new certificate of number bearing the same date and information required on the original certificate of number except the change in owner's name and address. The clerk shall charge the purchaser a fee of fifty cents.

Section 17. KRS 235.180 is amended to read as follows:

The owner shall furnish the *county* [circuit] court clerk notice of the transfer of all or any part of his interest other than the creation of a security interest in a motorboat numbered in this state pursuant to the provisions of this chapter or of the destruction or abandonment of such motorboat, within fifteen (15) days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of number for such motorboat, except, that in the case of a part interest which does not affect the owner's right to operate such motorboat, such transfer shall not terminate the certificate of number.

Section 18. This Act shall become effective January 1, 1978.

The Committee Amendment to **HB 12** is as follows:

Amend printed copy of House Bill 12 on page 12, line 7, after the word "dollar" by inserting "*($1.00)* [" and after "($1.75)" by inserting "]".

The Committee on Appropriations and Revenue reported **HB 16**, with Committee Substitute attached thereto, and **HB 30** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 16, AN ACT relating to collection and distribution of revenue from district courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 24A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) "Local court" means any police, justices', or quarterly court or county court sitting as a judicial body.

(2) "Net court revenue" means the amount of money collected by a court from fees, fines and forfeitures less the amount expended for court-related costs.

(3) "Court-related costs" means costs incurred in the operation and maintenance of a court for:
(a) Personnel,
(b) Equipment,
(c) Office supplies,
(d) Operating expenses, and
(e) Any other expense previously borne by a city or county or paid from fines, fees, and forfeitures of a local court, which is assumed by the state in connection with the operation of the district courts.
(4) "Base court revenue" means the net court revenue from any local court or any combination of local courts in a city or county during the period from July 1, 1975, through June 30, 1976.

SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
(1) The executive department for finance and administration shall determine by audit the base court revenue for each city and county which had a local court as of June 30, 1976.

SECTION 3. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
(1) All fees, fines and forfeitures in any district court case shall be collected and accounted for by the clerk of the district court and paid into the state treasury.
(2) The net court revenue of the district courts shall be returned to cities and counties.
(3) The amount of money returned to a city in criminal cases shall be proportional to the number of convictions for criminal offenses occurring within the city and tried in the district court, compared to the total number of convictions for criminal offenses occurring in the state and tried in district courts.
(4) The amount of money returned to a county in criminal cases shall be proportional to the number of convictions for criminal offenses occurring within the county and tried in the district court, compared to the total number of convictions for criminal offenses occurring in the state and tried in district courts.
(5) The amount of money returned to a city in civil cases shall be proportional to the number of civil cases filed in district courts by residents of the city.
(6) The amount of money returned to a county in civil cases shall be proportional to the number of civil cases filed in district courts by residents of unincorporated areas within the county.
(7) In no year, shall the amount of money returned to a city or county be less than the base court revenue of the city or county less the amount received by the city or county from any new or existing source as a result of implementation of the district courts. New source may include court facilities fees or any other source from which the city or county was not receiving revenue before the implementation of the district courts. Existing source may include the sale of motor vehicle operators' licenses, boat registrations or any other source from which the city or county may receive additional revenue as a result of implementation of the district courts.

SECTION 4. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
The executive department for finance and administration shall promulgate rules and regulations to carry out the provisions of Sections 2 and 3 of this Act.

The Committee Substitute for **HB 16** is as follows:

HB 16, AN ACT relating to collection and distribution of revenue from district courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 24A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:
(1) "Local court" means any police, justices', or quarterly court or county court sitting as a judicial body.
(2) "Net court revenue" means the amount of money collected by a court from fees, fines and forfeitures less the amount expended for court-related costs.
(3) "Court-related costs" means costs incurred in the operation and maintenance of a court for:
(a) Personnel,
(b) Equipment,
(c) Office supplies,
(d) Operating expenses, and
(e) Any other expense previously borne by a city or county or paid from fines, fees, and forfeitures of a local court, which is assumed by the state in connection with the operation of the district courts.

(4) "Base court revenue" means the average net court revenue from any local court or any combination of local courts in a city or county as computed from the 1973-74, 1974-75, 1975-76 fiscal years as adjusted pursuant to Section 2.

SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
The executive department for finance and administration shall determine by audit the base court revenue for each city and county which had a local court as of June 30, 1976. In the event that any city or county believes that unusual circumstances have adversely affected the resulting computation of base court revenues then the county or city may appeal to the executive department for finance and administration and the executive department for finance and administration may adjust such computation accordingly.

SECTION 3. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
The net court revenue, as finally determined in Section 2, less the net amount received by the city or county from any new or existing source as a result of implementation of the district courts, shall be returned to cities and counties. New source may include court facilities fees or any other source from which the city or county was not receiving revenue before the implementation of the district courts. Existing source may include the sale of motor vehicle operators' licenses, boat registrations or any other source from which the city or county may receive additional revenue as a result of implementation of the district courts. Such payments shall be made quarterly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
The executive department for finance and administration shall promulgate rules and regulations to carry out the provisions of Sections 2 and 3 of this Act.

HB 30, AN ACT relating to appropriations for the operation, maintenance, support and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I
GENERAL FUND

There is appropriated out of the General Fund, including any unappropriated surplus to the General Fund as of June 30, 1976, for the fiscal year beginning July 1, 1976, and ending June 30, 1977, and, including any unappropriated surplus to the General Fund as of June 30, 1977, for the fiscal year beginning July 1, 1977, and ending June 30, 1978, the following sums for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, and agencies of the State Government, and any and all other activities of the government of the Commonwealth of Kentucky subject to the provisions of Chapters 21, 42 and 45 of the Kentucky Revised Statutes, for which a specific appropriation is in Part I listed as follows:

A. GENERAL GOVERNMENT

1. KENTUCKY RETIREMENT SYSTEMS

1976-77	$ 500,000

B. DEVELOPMENT

1. OFFICE OF THE SECRETARY

1976-77	$ 99,800
1977-78	$ 39,500

For the operations of the Governor's Council on Agriculture.

C. PUBLIC PROTECTION AND REGULATION

1. DEPARTMENT OF BANKING AND SECURITIES

1976-77	$ 86,300
1977-78	$ 45,000

PART II
GENERAL PROVISIONS

1. Nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1977, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42 and 45 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Executive Department for Finance and Administration. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which such appropriation may be expended shall

be decided by the Secretary for Finance and Administration in accordance with the detailed estimates embodied in the Executive Budget 1976-78 Extraordinary Session and supporting work papers, as considered by the General Assembly, and the decision of the Secretary of the Executive Department for Finance and Administration shall be final and conclusive.

2. In enacting this Appropriation Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

The Committee on Judiciary—Courts reported **HR 10** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 10, A CONCURRENT RESOLUTION relating to the scheduling of police officers as witnesses in district court.

WHEREAS, court appearances by police officers are time-consuming and can cause great inconvenience to an officer and his family; and

WHEREAS, court appearances can be costly to local police departments when they are required to pay overtime to officers who appear as witnesses;

NOW THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Chief Judge of each Judicial District shall schedule for each police officer within the district times and places each month when the District Court shall hear all cases in which the officer must appear in court as a witness.

Section 2. The Supreme Court shall adopt rules to carry out the provisions of Section 1 of this resolution.

The Committee on Counties and Special Districts reported **HB 10,** with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 10, AN ACT relating to jails and jailers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Jail" means city jails, county jails, workhouses, and all other facilities for detention of prisoners operated by county and city government except for state facilities and juvenile facilities apart and separate from a jail. It also includes any such facility operated on a joint or multi-jurisdictional basis.

(2) "Prisoner" means any adult person confined pursuant to laws of the Commonwealth or the United States who is:

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Otherwise confined.

(3) "Bureau" means bureau of corrections.

(4) "Responsible unit of government" means that unit of government whose law or ordinance a prisoner is charged with violating.

SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The bureau shall by regulation establish standards for classification of jails including but not limited to the following classes:

(a) Regional jails;

(b) Local jails;

(c) Workhouses;

(d) Holdovers.

(2) Standards for classification shall take into consideration adequacy of facilities and degree of services provided.

(3) The bureau shall by regulation establish procedures for certification of each jail within its proper classification as established in Section 1 of this Act. Such regulations shall provide for:

(a) Periodic recertification of jails;
(b) Regular inspection of jails for compliance with bureau regulations;
(c) Enforcement of bureau regulations.

(4) No jail may be certified in a higher classification than that agreed to in writing by the local governing body.

(5) The bureau shall certify all jails meeting standards established by authority of this section on or before July 1, 1978.

(6) No prisoner shall be confined in an uncertified jail after July 1, 1978.

SECTION 3. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) For each day or part of a day that a prisoner is confined in a certified jail, there shall be paid out of the treasury of the responsible unit of government into the treasury of the local jurisdiction operating the jail, a prisoner per diem fee based on the schedule of fees set forth in KRS 64.150.

(2) All prisoner medical and dental expenses shall be paid by the responsible unit of government upon receipt from jail authorities of appropriate vouchers detailing the medical and dental expenditures. The responsible unit of government shall reimburse the local jurisdiction treasury on a monthly basis for the medical and dental expenses.

Section 4. KRS 441.010 is amended to read as follows:

The county *judge* [court] shall prescribe rules for the government and cleanliness of the county jail and the comfort and treatment of prisoners. The county *judge* [court] may, by fine, enforce the rules, and punish the jailer for disobedience thereof or for neglect of his official duties. The county judge shall inspect the jail at least once each month.

Section 5. KRS 441.020 is amended to read as follows:

The United States may use the *certified* jail of any *local jurisdiction* [county, and any city may use the jail of the county in which the city is located,] by paying the *local treasury no less than* [jailer] the fees allowed by KRS 64.150 for the type of services rendered. Any jailer shall receive and confine in jail, until lawfully discharged, persons committed under the laws of the United States or for a violation of the ordinances of any city within the county.

Section 6. KRS 441.030 is amended to read as follows:

If in any county there is no jail, or the jail is insecure, or there is danger or probable danger that any or all of the persons confined in the jail under any order or process of the circuit court, or held to answer any charge in the circuit court, will be removed from the jail by violence, the circuit judge shall, by an order made of record if the court is in session, or by written order filed with the clerk of the court if the court is not in session, direct that any or all of such persons be transferred to the jail of the nearest county in which the jail is secure and they can be safely kept. When any such order is made, and a copy thereof is furnished to the jailer of the county designated, he shall receive all such prisoners. If the circuit judge is not in the county, the order of transfer may be made by the *district* [county] judge, who shall deliver the order, or a copy thereof, to the circuit clerk for revision by the circuit court.

Section 7. KRS 441.040 is amended to read as follows:

Immediately upon the receipt of a copy of an order made pursuant to KRS 441.030, the sheriff, or if there is no sheriff, the coroner, shall transfer the prisoners to the jail of the county designated in the order. He shall deliver the prisoners to the jailer of that county at the jail, with a copy of the order, and take from him a receipt for the prisoners, which he shall return to the office of the circuit clerk of the county from which the removal was made. The clerk shall file the receipt in his office. The jailer shall receive the prisoners and safely keep them until they are properly discharged. If the jailer fails to accept and keep such prisoners, he and his sureties shall be liable in the same manner and to the same extent as if the prisoners had been regularly committed by an order of the circuit court of his county. The *county treasury* [jailer] shall receive the same fees as *it* [he] would receive for a prisoner committed by the circuit court of *its* [his] county. The officer conveying the prisoners to the designated jail, and such guards as the judge directs him to take, not exceeding the number of guards allowed in taking convicts to the penitentiary, shall receive the compensation and mileage allowed by KRS 64.070 for taking convicts to the penitentiary. The compensation shall be allowed by the circuit judge directing the transfer and paid out of the State Treasury, unless there was no jail in the county or it was rendered insecure by the failure of the fiscal court to keep it in the requisite condition, in which case it shall be paid by the fiscal court of the county. The circuit judge, in making the allowance, shall state in the order out of which fund it shall be paid. The order of the judge directing the transfer shall be conclusive evidence that the transfer was proper and to the right jail, and shall be a justification to the jailer for holding any such prisoner in any action against him for false imprisonment.

Section 8. KRS 441.050 is amended to read as follows:

If there exists threatened violence or intense feeling and public indignation against a person charged with a crime and in the custody of an officer, and the circuit judge of the county that has jurisdiction of the offense charged is of the opinion that the person cannot be safely kept in the jail in that county, the circuit judge [, with the consent of the Governor,] may order such person removed for safekeeping to the *certified jail* [state penitentiary] most convenient to the county having jurisdiction of the offense charged. In the absence of the circuit judge from the county, the *district* [county] judge of the county *may* [shall] exercise the powers conferred by this section upon the circuit judge. The officer who makes the removal shall be entitled to the actual expenses in making the removal, and in addition he shall receive a fee of five dollars per day for himself and two and one-half dollars per day each for not more than two guards. The claim for fees and expenses shall be presented for approval to the circuit court of the county having jurisdiction of the offense. *The compensation shall be allowed by the circuit judge directing the transfer and paid out of the treasury of the responsible unit of government.* [If the person removed is charged with a felony the expenses and fees shall be paid by the state; if charged with a misdemeanor the expenses and fees shall be paid by the county having jurisdiction of the offense charged.]

Section 9. KRS 441.060 is amended to read as follows:

The expense of keeping and boarding a person transferred pursuant to KRS 441.050 shall be borne by the responsible unit of government; if the responsible unit of government is a local unit of government, such government [If a person transferred pursuant to KRS 441.050 is charged with a felony the expense of keeping and boarding him at the penitentiary or reformatory shall be borne by the state; if he is charged with a misdemeanor the fiscal court of the county having jurisdiction of the offense charged] shall pay the bureau of corrections the fees provided by law to be allowed to a jailer for keeping and boarding a prisoner.

Section 10. KRS 441.090 is amended to read as follows:

The *county judge* [fiscal court] may appoint a manager of the workhouse, who shall receive and safely keep all prisoners committed to his custody, and see that they are comfortably fed and lodged and have proper attention when sick. He shall see that the prisoners work and conduct themselves according to prescribed regulations. He shall make such reports as the county *judge* [court] directs, and shall in all respects obey such orders as the county *judge* [court] makes respecting his duties.

Section 11. KRS 441.120 is amended to read as follows:

When a defendant is sentenced, pursuant to KRS 431.140, to work at hard labor until his fine and costs or imprisonment, or both, are satisfied, he shall be placed in the workhouse, if there is one in the county, or at work upon some public work or road of the county, or upon the public works of any city in the county. The place of working such prisoners shall be determined by the county judge, and he shall enter an order on the order book of the county *judge kept for that purpose* [court] specifying the manner in which such prisoners shall be worked. The judge shall give preference to work on the roads of the county when the weather will permit.

Section 12. KRS 441.130 is amended to read as follows:

When prisoners are by order [of the county judge] committed to the workhouse, they shall be fed and lodged according to the provisions of KRS 441.090. When prisoners are placed upon the public works of any city in the county, the city shall provide and pay for the food and lodging and the cost of guarding the prisoners. When prisoners are placed upon the county roads, or do work of any character connected with the building or maintaining of the public roads of the county, the cost of feeding, lodging and guarding the prisoners while actually engaged in such labor shall be paid out of the funds of the county set aside for road purposes; while not so engaged, the cost of feeding, lodging and guarding the prisoners shall be paid out of the county funds usually drawn on for prison purposes. In order that prisoners may be safely and comfortably kept and housed at night near the places where they are working, the *fiscal* [county] court may rent suitable buildings, or the prisoners may be kept in camps, or otherwise.

Section 13. KRS 441.140 is amended to read as follows:

The county *judge* [court] may prescribe, by an order of record, regulations for the government of the workhouse and of prisoners sentenced to hard labor and those in charge of them, and shall prescribe the number of hours the prisoners shall work and how they shall be secured while at work and at other times.

Section 14. KRS 441.150 is amended to read as follows:

The county judge may appoint a manager for each crew of prisoners, who shall also act as a guard, and the county judge may appoint such additional guards as may be necessary, except that no crew shall consist of less than three prisoners and not more than one person shall be paid to guard and manage less than ten prisoners. The managers and guards shall give bond, in a sum to be fixed by the county judge, for the faithful performance of their duties, and shall take an oath to faithfully perform their duties. They shall serve during the pleasure of the county judge. They shall be peace officers with power to make arrests. They shall be paid not less than ten cents nor more than twenty-five cents per hour while on duty, the amount to be paid to be fixed in the order of appointment. The manager of each crew shall see that the prisoners are comfortably fed and lodged, and have proper attention when sick, and that they work and conduct themselves according to prescribed regulations. The manager shall receive and safely keep all prisoners committed to his custody. He shall report to the county *judge* [court] in regard to such matters as the *judge* [court] directs, and he and the guards shall in all respects obey such orders as the county *judge* [court] makes respecting their duties.

Section 15. KRS 441.200 is amended to read as follows:

The jailer shall report to the county *judge* [court], once each month, the disposition made of prisoners sentenced to hard labor.

Section 16. KRS 64.070 is amended to read as follows:

(1)(a) Except as provided in KRS 441.050, an officer conveying a prisoner to the penitentiary shall be paid out of the state treasury *fourteen* [ten] cents *(14¢)* [(10¢)] per mile, to be calculated by the nearest traveled route, [for himself and for each guard employed,] and shall be paid all actual necessary expenses for feeding, lodging and transporting the prisoner.

(b) Upon the production of the receipt of the superintendent of the penitentiary for the delivery of a prisoner, and a complete verified account of all expenses incurred, giving the names of the guards employed and distance traveled, the executive department for finance and administration shall audit the account of the officer for conveying the prisoner and if found correct draw a warrant for its payment.

(2)(a) For conveying a prisoner charged with a felony from one (1) county to another, an officer shall receive the same mileage and expenses allowed for conveying a prisoner to the penitentiary, to be paid out of the state treasury except as provided in KRS 441.040.

(b) The officer shall make a complete account of all expenses incurred, giving the names of the guards employed and distance traveled, which shall be verified before the circuit court and certified by the clerk to the executive department for finance and administration for payment.

(3)(a) For arresting a person charged with a misdemeanor upon a warrant issued from another county, and conveying the person to the county jail of the county from which the warrant issued, an officer shall be paid out of the county treasury of such county the same mileage and expenses allowed for conveying a prisoner to the penitentiary.

(b) The officer shall present to the county judge of the county from which the warrant issued a verified and itemized statement of his mileage and expenses and the county judge shall direct the county treasurer to pay the same out of the county treasury.

(4) For conveying a prisoner charged with a felony to the jail of the county in which he was arrested an officer shall be paid out of the state treasury four cents (4¢) for each mile traveled in going and returning.

(5) The number of guards employed in conveying prisoners to the penitentiary or from one (1) county to another shall not exceed one (1) for every two (2) prisoners. Where only one (1) prisoner is conveyed no guard shall be employed, except that the circuit judge may appoint one (1) guard for each prisoner to the nearest railroad station.

Section 17. KRS 64.150 is amended to read as follows:

(1) Jailers shall be paid out of the county treasury, except as provided in subsection (2) of this section, the following fees for the following services:

[Attending county and quarterly court per day (jailer shall be paid the fee for each day the court is in session)	$6.00
Furnishing fuel and lights to county and quarterly court, except as provided in KRS 67.150, a reasonable compensation, not exceeding, per day	$2.00]
Putting a prisoner *charged with a violation of a county ordinance* in irons, [for an offense other than a felony or contempt] besides the cost of irons	$ .50
Keeping and dieting prisoners in jail when confined for *a violation of a county ordinance* [an offense other than a felony or contempt of court], per day	$4.75

Imprisoning and releasing a prisoner charged with a *violation of a county ordinance* [misdemeanor]	$ .75

(2) Where the prisoner is confined for a breach of the bylaws or ordinances of a city, [or for a violation of a statute where the city gets the benefit of the fine,] the fees for keeping and dieting the prisoner and for imprisoning and releasing shall be paid by such city.

(3) *The treasury of the local jurisdiction operating a jail* [Jailers] shall be paid out of the state treasury the following fees for the following services:

Imprisoning and releasing a prisoner charged with a *violation of state law* [felony] or contempt	$ .75
Keeping and dieting a prisoner charged with a *violation of state law* [felony] or contempt, per day	$4.25
Putting a prisoner charged with a *violation of state law* [felony] or contempt in irons, to secure his safekeeping in the jail, besides the cost of the irons	$ .50
Each day's attendance upon the circuit court *or district court*	$6.00
Furnishing fuel, light, and water to the circuit court *or district court*, not exceeding, per day	$2.00
Imprisoning and releasing a prisoner for violation of his probation or parole; provided, however, the state granting probation or parole has executed a compact with the Commonwealth in accordance with KRS 439.560. The fees shall be the same as those charged for *violation of state law* [felony] and contempt.	

(4) For all other services performed by the jailer, he shall receive the same fees paid to sheriffs for like services.

(5) If a court [of a county] sends a prisoner to a jail of another county, then the [county] treasurer of the *responsible unit of government* [county] from which the prisoner was sent shall pay the treasurer of the holding county any fees to which the jailer of the holding county is entitled to by law.

Section 18. KRS 441.410 is repealed.

Section 19. Sections 3 through 18 of this Act shall become effective January 1, 1978.

The Committee Substitute for **HB 10** is as follows:

HB 10, AN ACT relating to jails and jailers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Jail" means a jail as defined in KRS 441.410.

(2) "Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any other reason.

(3) "Unit of government" means that unit of government including the United States government whose law, statute, ordinance, or code a prisoner is charged with violating. In the event of a person imprisoned for contempt of court, the state shall be deemed the responsible unit of government.

Section 2. KRS 441.010 is amended to read as follows:

(1) The county *judge* [court] shall prescribe rules for the government and cleanliness of the county jail and the comfort and treatment of prisoners. [The county court may, by fine, enforce the rules, and punish the jailer for disobedience thereof or for neglect of his official duties.] The county judge shall inspect the jail at least once each month.

(2) Wilful violation of the rules promulgated pursuant to subsection (1) of this section shall be deemed a violation.

Section 3. KRS 441.030 is amended to read as follows:

If in any county there is no jail, or the jail is insecure, or there is danger or probable danger that any or all of the persons confined in the jail under any order or process of the circuit court, or held to answer any charge in the circuit court, will be removed from the jail by violence, the circuit judge shall, by an order made of record if the court is in session, or by written order filed with the clerk of the court if the court is not in session, direct that any or all of such persons be transferred to the jail of the nearest county in which the jail is secure and they can be safely kept. When any such order is made, and a copy thereof is furnished to the jailer of the county designated, he shall receive all such prisoners. If the circuit judge is not in the county, the order of transfer may be made by the *district* [county] judge, who shall deliver the order, or a copy thereof, to the circuit clerk for revision by the circuit court.

Section 4. KRS 441.050 is amended to read as follows:

If there exists threatened violence or intense feeling and public indignation against a person charged with a crime and in the custody of an officer, and the circuit judge of the county that has jurisdiction of the offense charged is of the opinion that the person cannot be safely kept in the jail in that county, the circuit judge, with the consent of the Governor, may order such person removed for safekeeping to the state penitentiary most convenient to the county having jurisdiction of the offense charged. In the absence of the circuit judge from the county, the *district* [county] judge of the county *may* [shall] exercise the powers conferred by this section upon the circuit judge. The officer who makes the removal shall be entitled to the actual expenses in making the removal, and in addition he shall receive a fee of five dollars ($5) per day for himself and two and one-half dollars ($2.50) per day each for not more than two (2) guards. The claim for fees and expenses shall be presented for approval to the circuit court of the county having jurisdiction of the offense. *The compensation shall be allowed by the circuit or district judge directing the transfer and paid out of the treasury of the responsible unit of government.* [If the person removed is charged with a felony the expenses and fees shall be paid by the state; if charged with a misdemeanor the expenses and fees shall be paid by the county having jurisdiction of the offense charged.]

Section 5. KRS 441.060 is amended to read as follows:

(1) The expense of keeping and dieting a prisoner transferred to the penitentiary or reformatory pursuant to KRS 441.050 shall be borne by the unit of government.

(2) The unit of government shall pay the expenses directly to the bureau of corrections.

(3) "Expenses" shall mean any fee provided by law to be allowed to a jailer for keeping and dieting a prisoner. [If a person transferred pursuant to KRS 441.050 is charged with a felony the expense of keeping and boarding him at the penitentiary or reformatory shall be borne by the state; if he is charged with a misdemeanor the fiscal court of the county having jurisdiction of the offense charged shall pay the bureau of corrections the fees provided by law to be allowed to a jailer for keeping and boarding a prisoner.]

Section 6. KRS 441.090 is amended to read as follows:

The *county judge* [fiscal court] may appoint a manager of the workhouse, who shall receive and safely keep all prisoners committed to his custody, and see that they are comfortably fed and lodged and have proper attention when sick. He shall see that the prisoners work and conduct themselves according to prescribed regulations. He shall make such reports as the county *judge* [court] directs, and shall in all respects obey such orders as the county *judge* [court] makes respecting his duties.

Section 7. KRS 441.120 is amended to read as follows:

When a defendant is sentenced, pursuant to KRS 431.140, to work at hard labor until his fine and costs or imprisonment, or both, are satisfied, he shall be placed in the workhouse, if there is one in the county, or at work upon some public work or road of the county, or upon the public works of any city in the county. The place of working such prisoners shall be determined by the county judge, and he shall enter an order on the order book of the county *judge kept for that purpose* [court] specifying the manner in which such prisoners shall be worked. The judge shall give preference to work on the roads of the county when the weather will permit.

Section 8. KRS 441.130 is amended to read as follows:

When prisoners are by order of *a judge of the court of justice* [the county judge] committed to the workhouse, they shall be fed and lodged according to the provisions of KRS 441.090. When prisoners are placed upon the public works of any city in the county, the city shall provide and pay for the food and lodging and the cost of guarding the prisoners. When prisoners are placed upon the county roads, or do work of any character connected with the building or maintaining of the public roads of the county, the cost of feeding, lodging and guarding the prisoners while actually engaged in such labor shall be paid out of the funds of the county set aside for road purposes; while not so engaged, the cost of feeding, lodging and guarding the prisoners shall be paid out of the county funds usually drawn on for prison purposes. In order that prisoners may be safely and comfortably kept and housed at night near the places where they are working, the *fiscal* [county] court may rent suitable buildings, or the prisoners may be kept in camps, or otherwise.

Section 9. KRS 441.140 is amended to read as follows:

The county *judge* [court] may prescribe, by an order of record, regulations for the government of the workhouse and of prisoners sentenced to hard labor and those in charge of them, and shall prescribe the number of hours the prisoners shall work and how they shall be secured while at work and at other times.

Section 10. KRS 441.150 is amended to read as follows:

The county judge may appoint a manager for each crew of prisoners, who shall also act as a guard, and the county judge may appoint such additional guards as may be necessary, except that no crew shall consist of less than three (3) prisoners and not more than one person shall be paid to guard and manage less than ten (10) prisoners. The managers and guards shall give bond, in a sum to be fixed by the county judge, for the faithful performance of their duties, and shall take an oath to faithfully perform their duties. They shall serve during the pleasure of the county judge. They shall be peace officers with power to make arrests. They shall be paid not less than ten cents (10¢) nor more than twenty-five cents (25¢) per hour while on duty, the amount to be paid to be fixed in the order of appointment. The manager of each crew shall see that the prisoners are comfortably fed and lodged, and have proper attention when sick, and that they work and conduct themselves according to prescribed regulations. The manager shall receive and safely keep all prisoners committed to his custody. He shall report to the county *judge* [court] in regard to such matters as the *judge* [court] directs, and he and the guards shall in all respects obey such orders as the county *judge* [court] makes respecting their duties.

Section 11. KRS 441.200 is amended to read as follows:

The jailer shall report to the county *judge* [court], once each month, the disposition made of prisoners sentenced to hard labor.

Section 12. KRS 64.070 is amended to read as follows:

(1)(a) Except as provided in KRS 441.050, an officer conveying a prisoner to the penitentiary shall be paid out of the state treasury *fourteen* [ten] cents *(14¢)* [(10¢)] per mile, to be calculated by the nearest traveled route, [for himself and for each guard employed,] and shall be paid all actual necessary expenses for feeding, lodging and transporting the prisoner.

(b) Upon the production of the receipt of the superintendent of the penitentiary for the delivery of a prisoner, and a complete verified account of all expenses incurred, giving the names of the guards employed and distance traveled, the executive department for finance and administration shall audit the account of the officer for conveying the prisoner and if found correct draw a warrant for its payment.

(2)(a) For conveying a prisoner charged with a felony from one (1) county to another, an officer shall receive the same mileage and expenses allowed for conveying a prisoner to the penitentiary, to be paid out of the state treasury except as provided in KRS 441.040.

(b) The officer shall make a complete account of all expenses incurred, giving the names of the guards employed and distance traveled, which shall be verified before the circuit court and certified by the clerk to the executive department for finance and administration for payment.

(3)(a) For arresting a person charged with a misdemeanor upon a warrant issued from another county, and conveying the person to the county jail of the county from which the warrant issued, an officer shall be paid out of the county treasury of such county the same mileage and expenses allowed for conveying a prisoner to the penitentiary.

(b) The officer shall present to the county judge of the county from which the warrant issued a verified and itemized statement of his mileage and expenses and the county judge shall direct the county treasurer to pay the same out of the county treasury.

(4) For conveying a prisoner charged with a felony to the jail of the county in which he was arrested an officer shall be paid out of the state treasury *fourteen cents (14¢)* [four cents (4¢)] for each mile traveled in going and returning.

(5) The number of guards employed in conveying prisoners to the penitentiary or from one (1) county to another shall not exceed one (1) for every two (2) prisoners. Where only one (1) prisoner is conveyed no guard shall be employed, except that the circuit judge may appoint one (1) guard for each prisoner to the nearest railroad station.

Section 13. KRS 441.990 is amended to read as follows:

A violation of KRS 441.020 shall be deemed a *class A misdemeanor* [misfeasance in office, and the county court may fine the jailer therefor, or he may be indicted and fined at the discretion of a jury].

Section 14. KRS 64.150 is amended to read as follows:

(1) Jailers shall be paid out of the county treasury, except as provided in subsection (2) of this section, the following fees for the following services:

Putting a prisoner charged with an offense or contempt in irons, or to secure his safekeeping in the jail, besides the cost of irons	*$ .50*
Keeping and dieting prisoners in jail when confined for an offense or contempt, per day	*$4.75*

Imprisoning and releasing a prisoner charged with an offense or contempt *$ .75*
Attending district or circuit court, per day (jailer shall be paid the fee for each day a prisoner is transported to court) *$6.00*
[Attending county and quarterly court per day (jailer shall be paid the fee for each day the court is in session) $6.00
Furnishing fuel and lights to county and quarterly court, except as provided in KRS 67.150, a reasonable compensation, not exceeding, per day $2.00
Putting a prisoner in irons, for an offense other than a felony or contempt besides the cost of irons $ .50
Keeping and dieting prisoners in jail when confined for an offense other than a felony or contempt of court, per day $4.75
Imprisoning and releasing a prisoner charged with a misdemeanor $ .75

(2) Where the prisoner is confined for a breach of the bylaws or ordinances of a city, or for a violation of a statute where the city gets the benefit of the fine, the fees for keeping and dieting the prisoner and for imprisoning and releasing shall be paid by such city.

(3) Jailers shall be paid out of the state treasury the following fees for the following services:
Imprisoning and releasing a prisoner charged with a felony or contempt $ .75
Keeping and dieting a prisoner charged with a felony or contempt, per day $4.75
Putting a prisoner charged with a felony or contempt in irons, to secure his safekeeping in the jail, besides the cost of the irons $ .50
Each day's attendance upon the circuit court $6.00
Furnishing fuel, light, and water to the circuit court, not exceeding, per day $2.00]
Imprisoning and releasing a prisoner for violation of his probation or parole; provided, however, the state granting probation or parole has executed a compact with the Commonwealth in accordance with KRS 439.560. The fees shall be the same as those charged for *an offense* [felony] and contempt.

(2) The unit of government whose law, statute, ordinance, or code a prisoner is charged with or convicted of violating shall be responsible for paying to the jailer the fees provided in subsection (1) of this section. In the event of a person imprisoned for contempt of court, the state shall be deemed the responsible unit of government. Where a person is detained other than for violation of a law or for contempt the unit of government requesting the service of the jailer shall pay to the jailer the fees provided in subsection (1) of this section.

(3) [(4)] For all other services performed by the jailer, he shall receive the same fees paid to sheriffs for like services.

(4) [(5)] If a court [of a county] sends a prisoner to a jail of another county, then the [county] treasurer of the *unit of government* [county] from which the prisoner was sent shall pay the treasurer of the holding county any fees to which the jailer of the holding county is entitled to by law.

Section 15. KRS 441.100 and 441.330 are repealed.

Section 16. This Act shall become effective January 1, 1978.

The Committee Amendment to the Committee Substitute for **HB 10** is as follows:

Amend printed copy of Committee Substitute for House Bill 10 on page 10, line 21, by inserting before "$4.75" the following "*$5.75* [", and inserting after "$4.75" a "]".

The Committee on Judiciary—Statutes reported **HB 14** and **HB 35** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 14, AN ACT relating to capital punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 507.020 is amended to read as follows:
(1) A person is guilty of murder when:
(a) With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of manslaughter in the first degree or any other crime; or

(b) Under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to another person and thereby causes the death of another person.

(2) Murder is a capital offense.

[(2) Murder is a Class A felony, except that in the following situations it is a capital offense:

(a) The defendant's act of killing was intentional and was for profit or hire;

(b) The defendant's act of killing was intentional, and occurred during the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, or rape in the first degree;

(c) The defendant's act of killing was intentional and the defendant was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties;

(d) The defendant's act of killing was intentional and the death was caused through use of a destructive device, as defined in KRS 237.030(1);

(e) The defendant's act or acts of killing were intentional and resulted in multiple deaths; or

(f) The defendant's act of killing was intentional and the victim was a police officer, sheriff or deputy sheriff engaged at the time of the act in the lawful performance of his duties.]

SECTION 2. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) When a defendant is found guilty of a capital offense, the Court shall conduct a separate proceeding to determine whether the defendant should be sentenced to death or to imprisonment for life or for a term of not less than twenty years. The proceeding shall be conducted before the Court alone if the defendant was convicted by a Court sitting without a jury or if the prosecuting attorney and the defendant waive a jury with respect to sentence. In all other cases the proceeding shall be conducted before the Court and the jury which determined the defendant's guilt unless for good cause shown, that jury is discharged and a new jury empanelled for the purpose.

(2) In the proceeding, evidence may be presented as to any matter that the court deems relevant to sentence; including but not limited to the nature and circumstances of the crime, the defendant's character, background, history, mental, and physical condition and any of the aggravating or mitigating circumstances enumerated in subsections (4) and (5) of this section. Any such evidence, not legally privileged, which the Court deems to have probative force, may be received, provided that the defendant's counsel is accorded a fair opportunity to rebut such evidence. The prosecuting attorney and the defendant or his counsel shall be permitted to present argument for or against sentence of death.

(3) The court, sitting alone as provided by subsection (1), or the jury in determining its verdict shall take into account the aggravating and mitigating circumstances enumerated in subsections (4) and (5) and any other facts that it deems relevant, but it shall not impose death unless it finds one of the aggravating circumstances enumerated in subsection (4) and further finds that there are no mitigating circumstances sufficiently substantial to call for leniency. When sentence is imposed by the court, sitting alone as provided by subsection (1), it shall enter into the record the aggravating circumstance enumerated in subsection (1) and that it finds there are no mitigating circumstances sufficiently substantial to call for leniency. When the issue is submitted to the jury, the court shall instruct the jury that if it returns a sentence of death it shall state in the verdict the aggravating circumstance enumerated in subsection (4) and shall state there are no mitigating circumstances sufficiently substantial to call for leniency. The Court shall further instruct and inform the jury of the nature of the sentence of imprisonment that may be imposed, including its implication with respect to possible release upon parole, if the jury verdict is against sentence of death.

(4) Aggravating circumstances.

(a) The capital offense was committed by a convict under sentence of imprisonment.

(b) The defendant was previously convicted of another capital offense or of a felony involving the use or threat of violence to the person.

(c) At the time the capital offense was committed the defendant also committed another capital offense.

(d) The defendant knowingly created a great risk of death to many persons.

(e) The capital offense was committed while the defendant was engaged or was an accomplice in the commission of, or an attempt to commit, or flight after committing or attempting to commit robbery, rape, or deviate sexual intercourse by force or threat of force, arson, burglary, or kidnapping.

(f) The capital offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from lawful custody.

(g) The capital offense was committed for pecuniary gain.

(h) The capital offense was committed upon a state or local official engaged at the time of the capital offense in the lawful performance of his duties or because of a lawful act done by the official in the performance of his duties.

(5) Mitigating circumstances.

(a) The defendant has no significant history of prior criminal activity.

(b) The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime.

(c) The victim was a participant in the defendant's criminal conduct or consented to the criminal act.

(d) The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime.

(e) The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor.

(f) The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime.

(g) At the time of the capital offense the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental disease or defect or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime.

(h) The youth of the defendant at the time of the crime.

Section 3. KRS 532.030 is amended to read as follows:

(1) When a person is convicted of a capital offense he shall have his punishment fixed at death *or imprisonment in accordance with Section 4 of this Act.* [However, any crime classified as a capital offense may at the discretion of the state be prosecuted as a Class A felony, provided such election to so prosecute is made at the time of indictment.]

(2) When a person is convicted of a Class A felony he shall have his punishment fixed at imprisonment in accordance with KRS 532.060.

(3) When a person is convicted of an offense other than a capital offense or Class A felony, he shall have his punishment fixed at:

(a) A term of imprisonment authorized by this chapter; or

(b) A fine authorized by KRS Chapter 534; or

(c) Both imprisonment and a fine unless precluded by the provisions of KRS Chapter 534.

SECTION 4. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

A sentence for a capital offense shall be death or a sentence of life or a term of not less than twenty years.

Section 5. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the bureau of corrections for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the bureau of corrections with directions that the sentence be carried out according to law.

Section 6. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any county or circuit court may, upon motion of the defendant made not earlier than thirty (30) days nor later than sixty (60) days after the defendant has been delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon such terms as the court determines. The court which tried the defendant may also suspend the sentence and place the defendant on probation upon its own motion, made within the same thirty-day period.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(4) Service of a sentence of death shall not be suspended.

Section 7. Whereas, the legislature finds an urgent need to protect the health, safety, and general welfare of the citizens of the Commonwealth, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor.

HB 35, AN ACT relating to crime and punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 528 IS CREATED TO READ AS FOLLOWS:

(1) Any person who, either for himself or as agent or employe of another, wagers money or anything of value on a horse race run or about to be run or advertised, posted or reported as being run at any race track in or out of this state, or who engages in the occupation of receiving, making, transmitting or negotiating, either in person or by messenger, telephone or telegraph, wagers on horse races run or about to be run or advertised, posted or reported as being run or about to be run at any race track in or out of the state, shall, except in the case of wagers made within the enclosure of a race track licensed by the state racing commission during an authorized race meeting at that track, or an enclosure during regular meetings in which running, trotting or pacing races are being conducted by associations regularly organized for that purpose, be guilty of a Class A misdemeanor.

(2) In any prosecution under subsection (1) of this section, the state need not prove that the horse race upon which the wager was placed was actually run. Proof that the wager was made upon what purported to be or what was advertised, reported or understood to be a horse race shall be sufficient to establish a prima facie case for the state.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 37, HB 38.**

Judiciary—Courts: **HB 7.**

Cities: **HB 41, HB 42.**

Representative Robinson moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 43, by Representative Robinson: AN ACT relating to unemployment compensation.

Announcements

The Clerk announced a meeting of the Committee on Judiciary—Courts, Room 316, 9:00 A.M., December 10, 1976.

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plan. Agreed.

Representative B. Richardson moved that when the House adjourns, it do so by voice vote and until 10:00 A.M., Frida, December 10, 1976. Agreed.

Recess

Representative B. Richardson moved that the House recess for ten minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker Pro Tempore resumed the Chair and called the House to order.

Representative B. Richardson moved that the rules be suspended for a report of the Committee on Rules. Agreed

Report of Committees

The Committee on Rules reported **HR 12, HB 23** with Committee Amendments attached thereto, **HB 34, HB 15** with Committee Amendment attached thereto, **HB 2, SJR 4** have been posted for passage in Orders of the Day, December 13, 1976.

The Committee on Rules reported **HB 28,** with Committee Amendment attached thereto, has been recommitted to the Committee on Labor and Industry.

The Committee on Rules reported **HB 32** has been recommitted to the Committee on Judiciary—Courts.

The Committee on Rules reported **SB 5** has been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

Adjournment

Representative Fitzgerald moved that the House adjourn until 10:00 A.M., Friday, December 10, 1976.

The motion to adjourn was adopted by voice vote.

FRIDAY, DECEMBER 10, 1976

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Doyle Cannon, Church of Christ, Nicholasville, Kentucky.

The roll was called. All present except Representatives Crupper, Gay, Head, Maynard, McGill, Stewart, and J. R. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of December 9, 1976, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 10, SB 1,** and **SB 12.**

Introduction of Bills and Resolutions

HB 44, by Representatives Hancock and P. Richardson: AN ACT relating to justices of the peace.

HB 45, by Representatives Hancock, P. Richardson and Cooper: AN ACT relating to justices of the peace.

HB 46, by Representatives Jones and Lindsay: AN ACT relating to probate.

HR 22, by Representatives Blythe and Wooden: A RESOLUTION urging the State Superintendent of Public Instruction and the State Board of Education to assist in the settlement of the teacher strike in Jefferson County.

HR 23, by Representative Bevins: A RESOLUTION urging the State Department of Education to conduct a study of the elementary school curriculum to determine if adequate time is available for teaching basic skills.

HR 24, by Representatives Holloway, Guenthner, Ackerson, Bendl, Bennett, Benson, Blume, Blythe, Dunn, Kidd, Kleier, Nett, O'Brien, Priddy, Romines, Siemens, Wooden, Wright, and Yates: A RESOLUTION honoring the 1976 Trinity High School Shamrocks for winning the State Class 4-A football championship.

Report of Committees

The Committee on Education reported **HR 16** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 16, A RESOLUTION urging the Department of Education to fund the pre-school programs for handicapped children in the counties of Jefferson and Fayette beyond the 1976-77 school year.

WHEREAS, pre-school children with mental and physical handicaps deserve the same chance as do normal children to achieve their developmental potential prior to entering elementary school; and

WHEREAS, the Department of Education approved the use of Minimum Foundation Program funds for sixteen classroom units in Jefferson County and six classroom units in Fayette County for pre-school handicapped children for the 1976-77 school year; and

WHEREAS, the Department of Education has notified the school systems in Jefferson and Fayette Counties that their twenty-two classroom units for pre-school handicapped children will not be funded for the 1977-78 school year; and

WHEREAS, a pre-school child with a handicapping condition needs early intervention to attempt to alleviate the difference in school readiness between a handicapped and an average child and these programs have been successful in this effort; and

WHEREAS, the Jefferson and Fayette Couny school systems cannot afford the approximately $350,000 required to continue to fund the twenty-two classroom units during the 1977-78 school year; and

WHEREAS, the General Assembly would not be able to appropriate the needed funds for the pre-school programs for handicapped children prior to the 1978 General Assembly;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Department of Education is urged to continue to fund during the 1977-78 school term the twenty-two classroom units for pre-school handicapped children in the counties of Jefferson and Fayette, and that the Department thoroughly explore the use of all funding sources, including any federal matching programs, for this purpose.

Section 2. That the Clerk of the House of Representatives transmit a copy of this resolution to the Governor and to the Superintendent of Public Instruction.

The Committee on Labor and Industry reported **HB 28**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 2 to **HB 28** is as follows:

Amend printed copy of House Bill 28 on page 17, after line 12 by adding the following:

"Section 4. KRS 342.122 is amended to read as follows:

(1) "Adjusted cost" as used in this section and in KRS 342.475 means all compensation, hospital and medical benefits paid thereunder, plus an additional factor of twelve percent (12%) of such total payments, to cover the administrative cost of the employer. However in no event shall "adjusted cost" be less than fifty percent (50%) of the basic insurance premium computed by applying current manual rates for workmen's compensation insurance to the payroll of every employer carrying his own risk, *where such employer has not been subject to the provisions of this chapter for at least twelve (12) months. Each* [and for this purpose each] employer shall annually furnish payroll data to the department of revenue. "Adjusted cost" shall not include amounts paid for injuries occurring prior to March 22, 1962.

(2) In addition to the taxes and assessments imposed by KRS 342.450 and 342.475, a special fund tax at the rate of three-fourths of one percent (.75%) of the amount of premiums received shall be paid by every insurance carrier as defined in KRS 342.445, subject to the credits therein set out, and the department of revenue shall assess against the "adjusted cost" of every employer carrying his own risk a special fund tax computed by taking three-fourths of one percent (.75%) of the "adjusted cost" determined as provided in KRS 342.475. The provisions of KRS 342.450, 342.455, 342.460, 342.465 and 342.470 shall, so far as applicable, also apply to the levy and collection of such additional tax of three-fourths of one percent (.75%) of such premiums of insurance carriers.

(3) All taxes and assessments imposed by subsection (2) of this section shall be paid into the state treasury and shall be credited to the special fund for the board, which fund shall be used only for the payment of awards of compensation made by the board and chargeable against said fund, expenses of legal representation thereof, fees and expenses of the physicians in connection therewith, and shall be withdrawn for that purpose under the supervision of the commissioner of labor.

(4) Any sum remaining in the special fund at the end of any fiscal year shall be set up by the executive department for finance and administration to the credit of such fund for the next ensuing fiscal year.

(5) If the commissioner of labor finds that the special fund tax levied pursuant to this section is insufficient to pay such claims awarded under the special fund provisions, he shall advise the commissioner of revenue in writing of such fact. The commissioner of revenue may then levy additional assessments against all insurance companies writing workmen's compensation insurance in Kentucky, including every employer carrying his own risk. The amount of each insurance company's assessment shall be in the proportion that each company's annual workmen's compensation premium writings in Kentucky bears to the total of all annual workmen's compensation premiums written in Kentucky. Such assessment will be based upon information contained in the insurance company's last filed annual statement with the department of insurance. Such assessments against every employer carrying his own risk will be based upon that proportion which the "adjusted cost" of such own risk carrier bears to the total "adjusted cost" of all such own risk carriers.

"Adjusted cost" reports filed with the board in accordance with KRS 342.475 will be the basis of such determination. Such additional assessment against insurance companies and employers carrying their own risk shall be apportioned between the two classes as the total of premiums and the total of "adjusted cost" each bears to the combined total.

(6) The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as herein set out and all monies and properties owned by the subsequent claim fund are transferred to the special fund.

Section 5. KRS 342.350 is amended to read as follows:

(1) In order to comply with KRS 342.340 groups of employers may form, either among themselves or with employers in other states, mutual insurance associations or reciprocal or interinsurance exchanges subject to the insurance laws of this state and such reasonable conditions and restrictions not inconsistent therewith as may be fixed by the board. Membership in such mutual insurance associations or reciprocal or interinsurance exchanges so approved, together with evidence of the payment of premiums due, shall be evidence of compliance with KRS 342.340.

(2) The board may, except as provided in subsection (3), require any mutual insurance association or reciprocal or interinsurance exchange to purchase an annuity or to effect reinsurance with a company authorized to transact insurance in this state or to make such deposit with a bank or trust company of this state as shall in either case be approved by the board for the purpose of fully securing the payment of all deferred instalments upon any claim for compensation.

(3) Any mutual insurance association or reciprocal or interinsurance exchange possessing a surplus of at least one hundred thousand dollars ($100,000) and not less in amount than the capital required of a domestic stock insurance company transacting the same kind of insurance, shall not be required to purchase an annuity or effect reinsurance with a company authorized to transact insurance in this state or to make such a deposit with a bank or trust company of this state for the purpose of fully securing the payment of all deferred instalments upon any claim for compensation.

(4) In addition, the board, under rules and regulations as it may prescribe, may permit two or more employers to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insurers and each employer member of such approved group shall be classified as a self-insurer as defined under this chapter. Employers securing certification as group self-insurers are regulated by the rules and regulations drawn by the workmen's compensation board and are not to be in any way subject to the provisions of subsections (1), (2) and (3) of this section.

Section 6. Chapter 55 of the 1976 Acts of the General Assembly, Part I. A. 11.d. is amended to read as follows:

d. Coal Miners Pneumoconiosis Fund

1976-77	*$4,500,000* [$9,000,000]
1977-78	*$4,500,000* [$9,000,000]

These funds are appropriated to the Coal Miners Pneumoconiosis Fund. This fund shall be used for compensating coal worker claimants entitled to benefits for coal workers' pneumoconiosis or silicosis as defined in KRS Chapter 342. If, however, the production of coal severed within the meaning of KRS Chapter 143 shall be less than 150,000,000 tons for each fiscal year 1976-77 and 1977-78 the Fund shall be reduced at the rate of six (6) cents per ton to the severed tonnage for each said fiscal year.

Section 7. There is appropriated out of the general fund for the 1976-77 fiscal year, $4,500,000 and for the 1977-78 fiscal year, $4,500,000 to the Special Fund."

Calendar

HB 6, HB 12, HB 16, HB 30, HR 10, HB 10, HB 14, and **HB 35** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motion, Petitions, and Communications

The Speaker vacated the Chair. Speaker Pro Tempore Clapp presiding.

Representative Hughes moved that the rules be suspended for the purpose of adopting a Resolution. Agreed.

Representative Hughes moved the adoption of the following **HR 19:**

HR 19, A RESOLUTION to adjourn the House in memory of William Kellerman, Jr.

WHEREAS, William Kellerman, Jr., Army veteran, lawyer, bankruptcy referee, tireless public servant, and loyal friend has departed this earthly life; and

WHEREAS, William Kellerman, Jr. was a distinguished citizen of Kentucky; and

WHEREAS, William Kellerman, Jr. served as a company commander under General George S. Patton and later rose to the rank of major in the Army Reserve, 100th Division; and

WHEREAS, William Kellerman, Jr. faithfully served as a bankruptcy referee for many years; and

WHEREAS, the memory of William Kellerman, Jr. is recalled most fondly by such fortunate Kentuckians having known him;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives pay tribute to the memory of William Kellerman, Jr. by adjourning in his honor this ninth day of December, 1976.

Section 2. That the Clerk of the House be directed to forward copies of this resolution to the family of William Kellerman, Jr.

HR 19 was adopted by voice vote.

The following members filed floor amendments to Bills: Representative Deskins, Floor Amendment No. 3 to **HB 23;** Representative Hopkins, Floor Amendment No. 1 to **HB 12;** Representative Givhan, Floor Amendment No. 2 to **HB 29.**

Representative Bevins moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Bevins moved the adoption of the following **HR 23:**

HR 23, A RESOLUTION urging the State Department of Education to conduct a study of the elementary school curriculum to determine if adequate time is available for teaching basic skills.

WHEREAS, the primary mission of elementary schools is to teach children basic skills; and

WHEREAS, subject matter other than basic skills is periodically added to the elementary school curriculum; and

WHEREAS, teachers are beginning to find that the elementary school curriculum is becoming so filled with other matters that they do not have adequate time to devote to the teaching of the basic skills; and

WHEREAS, tests have shown that after the fourth grade our children fall below the national average in achievement in the basic skills;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the State Department of Education is urged to conduct a study of the elementary school curriculum to determine if proper emphasis is being placed on the teaching of basic skills and to make any changes as may be necessary to assure adequate time is available for teaching the basic skills.

Section 2. That the State Department of Education report its findings and appropriate recommendations to the Interim Joint Committee on Education by August 1, 1977.

HR 23 was adopted by voice vote.

Representative Blythe moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Blythe moved the adoption of the following **HR 22:**

HR 22, A RESOLUTION urging the State Superintendent of Public Instruction and the State Board of Education to assist in the settlement of the teacher strike in Jefferson County.

WHEREAS, differences have arisen between the Jefferson County Teachers Association and the Jefferson County Board of Education; and

WHEREAS, the Jefferson County teachers have gone out on strike; and

WHEREAS, the strike has continued for several days now and no settlement has been reached; and

WHEREAS, the children of Jefferson County are being deprived of educational services;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the State Superintendent of Public Instruction and the State Board of Education is urged to use all influence and power at their disposal to effect a settlement of the differences which have arisen between the Jefferson County Teachers Association and the Jefferson County Board of Education and bring to immediate conclusion the strike now in progress, and restore full and complete educational services to the children of Jefferson County.

Section 2. That the Clerk of this body is directed to transmit immediately on passage a copy of this resolution to the State Superintendent of Public Instruction and the chairman of the State Board of Education.

HR 22 was adopted by voice vote.

Representative Holloway moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Holloway moved the adoption of the following **HR 24:**

HR 24, A RESOLUTION honoring the 1976 Trinity High School Shamrocks for winning the State Class 4-A football championship.

WHEREAS, the Trinity Shamrocks under Head Coach Dave Moore had a 14-0 winning season record; and

WHEREAS, the Trinity Shamrocks set a new school record during the 1976 season when its defensive team had a total of only 29 points second against it during the first 13 games; and

WHEREAS, the Trinity Shamrocks were designated the No. 1 Class 4-A team in the state by the AP poll; and

WHEREAS, the Trinity Shamrocks were designated the No. 1 state team in the Litkenhause poll conducted by the Courier-Journal and Times; and

WHEREAS, the Trinity Shamrocks won the State 4-A football championship; and

WHEREAS, the Shamrocks' performance enhanced Trinity's long tradition of athletic excellence;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Coach Dave Moore and the 1976 Trinity High School football team be honored for their accomplishments in winning the state 4-A championship.

Section 2. That the Clerk of the House be directed to send copies of this resolution to the principal, athletic director, and head football coach of Trinity High School.

HR 24 was adopted by voice vote.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representatives LeMaster and Richards, **HB 34;** Representative Ackerson, **HB 17, HB 18, HR 16, HR 17;** Representative Brown, **HB 44, HB 45;** Representative Hardwick, **HB 19.**

The following members filed Floor Amendments to Bills and Resolutions: Representative Fitzgerald, Floor Amendment No. 2 to **HB 12;** Representative Stephens, Floor Amendments Nos. 1, 2, and 3 to **HB 28;** Representative B. Richardson, Floor Amendment No. 4 to **HB 23;** Representative Hurst, Floor Amendment No. 2 to **HB 23;** Representative Deskins, Floor Amendment No. 2 to **HB 21.**

The Speaker resumed the Chair.

Orders of the Day

HB 17 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 17** be passed.

On the roll call the vote was yeas 79-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Imes, Kenton, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McNutt, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 17 was passed and the title agreed to.

Representative Givhan moved that the vote by which **HB 17** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 18 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 18** be passed.

On the roll call the vote was yeas 85-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Imes, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, McBee, McBride, McNutt, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, R. A. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 18 was passed and the title agreed to.

Representative Givhan moved that the vote by which **HB 18** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **HB 3**.

Orders of the Day (continued)

Representative B. Richardson moved that consideration of **HB 21** be deferred and that it retain its position in Orders of the Day. Agreed.

SB 2 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 66-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Hancock, Holbrook, Hopkins, Imes, Isler, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McNutt, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siemens, Stephens, Tobin, Thomas, Vincent, Wells, White, Wible, Wright, Yates. Nays 17-Beshear, Blair, Brown, Cyrus, Dawahare, DeFalaise, Denham, Doss, Gray, Guenthner, Hardwick, Holloway, Muncy, Priddy, Rattliff, Romines, R. A. Turner.

SB 2 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 2** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 8, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of Committee Amendment No. 1 to **SB 8**. Agreed.

Representative Fitzgerald moved the adoption of Committee Amendment No. 2 to **SB 8**. Agreed.

Representative B. Richardson moved that **SB 8**, as amended, be passed.

On the roll call the vote was yeas 90-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McNutt, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

SB 8, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 8**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative B. Richardson moved that when the House adjourns, it do so by voice vote and until Monday, December 13 at 4:00 p.m. Agreed.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions, and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 47, by Representative LeMaster: AN ACT relating to criminal offenses.

HJR 25, by Representative Hancock: A JOINT RESOLUTION requiring a study of the demand for and prospective costs of military service credit for members of Kentucky retirement systems.

Report of Committees

The Committee on Elections and Constitutional Amendments reported **HB 26,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 26, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.215 is amended to read as follows:

(1) Not less than forty-five (45) days before a primary or regular election is to be held, and after the order of the names has been determined as provided in KRS 118.225, the secretary of state shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device under which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors. Candidates for county offices shall be listed in the following order: county judge, commonwealth's attorney, county attorney, circuit clerk, county clerk, sheriff, jailer, county commissioner, property valuation administrator, coroner, justice of the peace and constable. The names of candidates for president and vice president shall be certified in lieu of certifying the names of the candidates for presidential electors.

(2) All independent candidates whose nominating petitions are filed with the county clerk shall be listed under the title and device designated by them, or if none is designated, under the word "independent". The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for such city offices grouped according to the offices they seek, and such candidates shall be immediately arranged under and beneath the title of office such candidates seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which such candidates are to be elected shall be separated from the preceding or succeeding groups by a line transversing the entire ballot and spaced so as to avoid confusion on the part of the voter.

(4) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the state board of elections not less than 35 days before the primary or general election. The state board of elections shall meet within 5 days of such notice, review the ballot conditions and determine whether or not supplemental paper ballots are necessary for the election. Upon approval of the state board of elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices, public questions submitted for a yes or no vote and candidates for other offices as approved by the state board of elections, provided that all candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

Section 2. KRS 117.145 is amended to read as follows:

(1) At least two (2) days before any special election and at least fifteen (15) days before any primary or regular election, the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be

printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of such size as will fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of special paper ballots. The special ballot shall be used for voting by absent voters; by voters so disabled by age, infirmity or illness as to be unable to appear at the polls; and for voting in an emergency situation. The ballot stubs shall be consecutively numbered and the county board shall keep a record, by number, of all special ballots used for any of the purposes listed herein.

(3) At least three (3) days before a special or regular election the county clerk shall equip the voting machines with the necessary supplies for the purpose of write-in votes. The county clerk shall also attach a pencil or pen to the voting machine for write-in purposes.

(4) *If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall cause to be printed a sufficient number of paper ballots for the registered voters of each precinct.* [If the court finds the candidate is not a bona fide candidate it must so order, and certify the fact to the board of elections, and the candidate's name shall be stricken from the written designation of election officers filed with the board of elections or the court may refuse recognition or relief in a mandatory or injunctive way. The order of the circuit court shall be entered on the order book of the court and shall be subject to a motion to set aside in the Court of Appeals. The motion shall be heard by the Court of Appeals or a judge thereof in the manner provided for dissolving or granting injunctions, except that the motion must be made before the court or judge within five (5) days after the entry of the order in the circuit court, and may be heard and tried upon the original papers, and the order of the Court of Appeals or judge thereof shall be final.

(5) No person shall approach the circuit judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him.]

Section 3. KRS 117.175 is amended to read as follows:

The county clerk shall, with the county attorney prepare a sufficient number of instruction cards containing a diagram showing the front of the voting machine as it will appear on the day of the election, instructions as to the proper method of voting by the use of the machine and instructions as to the proper method of casting a write-in vote. *If supplemental paper ballots have been approved, as provided in KRS 118.215, the cards shall indicate the offices, candidates and questions which will appear on the paper ballots and the instructions for marking and depositing the ballots.* The cards shall be examined and approved by the county board of elections at the time the machines are examined and approved. The cards shall be delivered to each election clerk by the county clerk at the time that other election supplies are delivered and the election clerk shall post the card at the polling place.

Section 4. KRS 117.195 is amended to read as follows:

(1) At least one (1) hour prior to the opening of the polls, the county clerk shall deliver each machine, with the operating device and mechanism and the device covering the registering counters securely locked, to the clerk of the precinct in which it is to be used, and shall take a receipt therefor indicating the distinguishing number of the machine. The clerk of the precinct shall cause the machine to be arranged in the voting place in such a manner that the front of the machine, on which appear the ballot labels and the operating devices, will not be visible, when being operated, to any person other than the voter.

(2) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall, at least one hour prior to the opening of the polls, deliver a sufficient number of ballots for the registered voters of each precinct and a locked ballot box for each precinct. The county clerk shall take a receipt for the number of ballots issued and the ballot box for each precinct. The county clerk shall retain the keys to all ballot boxes.

Section 5. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the mechanical model, in the use of the machine, if the voter so requests.

(2) No voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. Upon making and filing with the judges such oath, the voter shall retire to the voting machine, with the judges, and one of the judges shall then, in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer. The clerk shall swear the person accompanying the disabled or blind voter to operate the voting machine in accordance with the directions of the disabled or blind voter, and the disabled or blind voter and the person sworn shall then enter the voting booth and the one so sworn shall operate the machine for the disabled or blind voter as he directs. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to

receive assistance, and the judges of election shall enter in writing, on a record of assisted voters, the voter's name and the specific physical disability which required him to receive assistance.

(3) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.,

(4) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(5) If the machine is so constructed as to require adjustment after one (1) person has voted before another person may vote, the judges of election shall so adjust it after each person has voted.

(6) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(7) In elections for president and vice president, if a voter is eligible to vote only for the office of president and vice president a judge of the election shall adjust the machine so that the voter will only be able to vote for president and vice president.

(8) If supplemental paper ballots have been approved as provided in KRS 118.215, the voter shall mark his ballot in privacy, as arranged by the precinct clerk, and deposit the marked ballot in the locked ballot box in the presence of the precinct election officials.

Section 6. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any such precinct, any candidate and any representatives to witness and check the count of the votes therein, who are hereby authorized to be appointed as is provided in subsection (6) of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation, and they shall then sign a certificate stating:

(a) That the machine has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting machine, which certificate shall be returned by the judges of election to the officials authorized by law to receive the same. The judges shall then compare the number of voters, as shown by the counter of the machine, with the number of those who have voted as shown by the protective or accumulative counter or device.

(3) The judges, in the presence of the representatives mentioned in subsection (1), if any, and of all other persons who may be lawfully within the polling place, shall then make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the same, giving full view of all the counter numbers. The judges shall, under the scrutiny of such representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the judges. The total vote cast for each candidate, and for and against each question, and the votes written in, shall then be entered on the general and quadruplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective or accumulative counter or device on each machine immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, quadruplicate return sheets shall remain exposed to view until the said returns and all other reports have been fully completed.

(4) The proclamation of the result of the votes cast shall be announced distinctly and audibly by one of the judges of election, who shall read the name of the vote cast for each candidate and the vote for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the judges, after which the doors or other cover of the voting machine shall be closed and locked and the return sheet shall be signed by each of the judges of election. If any judge shall decline to sign such return, he shall state his reason therefor in writing, and a copy thereof, signed by him, shall be enclosed with such return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the judges shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and precinct list, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the

county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. Said envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes, the county board shall immediately mail the tabulation result, the general return sheets and the precinct lists from each precinct to the state board of elections.

(5) As soon as possible after the completion of the count, the election officers shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the clerk of the county court in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

(6) In primary elections, each candidate or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

(7) If supplemental paper ballots have been approved as provided in KRS 118.215, the ballot box and all unused paper ballots shall be returned to the county clerk's office at the same time as the tabulation of votes from the voting machine is reported. The county clerk shall issue a receipt for the number of unused ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the secretary of state. The county board of elections shall authorize the candidates or their representatives and representatives of the news media to be present during the counting of the paper ballots. The county clerk shall retain the paper ballots for thirty days, at which time they shall be burned by the county board of elections.

SECTION 7. A NEW SECTION OF KRS 118.305 to 118.425 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of determining the order in which the names of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots under the designation of the respective offices, the secretary of state shall prepare lists of the counties of each congressional district of the state. He shall then arrange the surnames of all candidates for each office in alphabetical order for the first congressional district, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the secretary of state, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2 p.m. standard time, fifty-three (53) days before the general election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m., standard time, fifty-three (53) days before the general election.

(4) If the number of certified candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the state board of elections, as provided in KRS 118.215.

Section 8. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than fifty-five (55) days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the primary election.

(5) Not less than forty-five (45) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice. [Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.]

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot." Above the names of candidates for nomination shall be printed the words "Vote for one," or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(9) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 9. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(2) Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (1), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice. [Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.]

(4) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 10. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than seventy (70) days before the primary. If the vacancy occurs on or after the seventieth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and section 152 of the Constitution of Kentucky.

(2) Each candidate shall file a petition for candidacy with the secretary of state at least fifty-five (55) days before the day fixed by law for holding the regular election.

(3) The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy. The petition shall be in the form prescribed by the state board of elections.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(5) Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice. [Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.]

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 11. KRS 424.290 is amended to read as follows:

(1) Not less than three days before any primary or regular election the county court clerk shall cause to be published in a newspaper a copy of the face of the voting machines. Where the voting machine faces differ for various precincts within the county, the county clerk shall cause to be published only one voting machine face with appropriate notations showing the differences in the various precincts. *If supplemental paper ballots have been approved as provided in KRS 118.215, the paper ballot shall be published at the same time as the face of the voting machine.* The cost of publication shall be paid by the county, except that the cost of publishing any voting machine face that is limited to a city election or a district election other than a school district election, shall be paid by the city or the district as the case may be.

(2) "Copy," as used in subsection (1) of this section, means a summary of a voting machine face showing all the pertinent information that will appear on a particular voting machine face.

The Committee Substitute for **HB 26** is as follows:

HB 26, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.015 is amended to read as follows:

(1) A "political party" within the meaning of this chapter, is an affiliation or organization of electors representing a political policy and having a constituted authority for its government and regulation, and which cast at least twenty per cent (20%) of the total vote cast at the last preceding election at which presidential electors were voted for.

(2) The word "election" used in reference to a state, district, county or city election, includes the decisions of questions submitted to the qualified voters as well as the choice of officers by them.

(3) An "official ballot" means the voting machine ballot label, an absentee ballot, a special ballot or a supplemental paper ballot which has been authorized for the use of the voters in any primary, general or special election by the secretary of state or the county court clerk.

Section 2. KRS 118.215 is amended to read as follows:

(1) Not less than forty-five (45) days before a primary or regular election is to be held, and after the order of the names has been determined as provided in KRS 118.225, the secretary of state shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device under which the candidate groups or lists of candidates of each party shall be printed, in the order in which

they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors. Candidates for county offices shall be listed in the following order: county judge, commonwealth's attorney, county attorney, circuit clerk, county clerk, sheriff, jailer, county commissioner, property valuation administrator, coroner, justice of the peace and constable. The names of candidates for president and vice president shall be certified in lieu of certifying the names of the candidates for presidential electors.

(2) All independent candidates whose nominating petitions are filed with the county clerk shall be listed under the title and device designated by them, or if none is designated, under the word "independent". The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for such city offices grouped according to the offices they seek, and such candidates shall be immediately arranged under and beneath the title of office such candidates seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which such candidates are to be elected shall be separated from the preceding or succeeding groups by a line transversing the entire ballot and spaced so as to avoid confusion on the part of the voter.

(4) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the state board of elections not less than 35 days before the primary or general election. The state board of elections shall meet within 5 days of such notice, review the ballot conditions and determine whether or not supplemental paper ballots are necessary for the election. Upon approval of the state board of elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote, provided that all candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

Section 3. KRS 117.145 is amended to read as follows:

(1) At least two (2) days before any special election and at least fifteen (15) days before any primary or regular election, the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of such size as will fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of special paper ballots. The special ballot shall be used for voting by absent voters; by voters so disabled by age, infirmity or illness as to be unable to appear at the polls; and for voting in an emergency situation. The ballot stubs shall be consecutively numbered and the county board shall keep a record, by number, of all special ballots used for any of the purposes listed herein.

(3) At least three (3) days before a special or regular election the county clerk shall equip the voting machines with the necessary supplies for the purpose of write-in votes. The county clerk shall also attach a pencil or pen to the voting machine for write-in purposes.

(4) *If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall cause to be printed a sufficient number of paper ballots for the registered voters of each precinct. The paper ballots shall have stubs which are numbered consecutively. The quality of paper on which the supplemental paper ballots are printed shall be determined by regulations promulgated by the secretary for the executive department for finance and administration.* [If the court finds the candidate is not a bona fide candidate it must so order, and certify the fact to the board of elections, and the candidate's name shall be stricken from the written designation of election officers filed with the board of elections or the court may refuse recognition or relief in a mandatory or injunctive way. The order of the circuit court shall be entered on the order book of the court and shall be subject to a motion to set aside in the Court of Appeals. The motion shall be heard by the Court of Appeals or a judge thereof in the manner provided for dissolving or granting injunctions, except that the motion must be made before the court or judge within five (5) days after the entry of the order in the circuit court, and may be heard and tried upon the original papers, and the order of the Court of Appeals or judge thereof shall be final.

(5) No person shall approach the circuit judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him.]

Section 4. KRS 117.175 is amended to read as follows:

The county clerk shall, with the county attorney prepare a sufficient number of instruction cards containing a diagram showing the front of the voting machine as it will appear on the day of the election, instructions as to the proper method of voting by the use of the machine and instructions as to the proper method of casting a write-in vote. *If supplemental paper ballots have been approved, as provided in KRS 118.215, the instruction cards shall indicate the offices, candidates and questions which will appear on the paper ballots and the instructions for marking and depositing the ballots.* The cards shall be examined and approved by the county board of elections at the time the machines are examined and approved. The cards shall be delivered to each election clerk by the county clerk at the time that other election supplies are delivered and the election clerk shall post the card at the polling place.

Section 5. KRS 117.195 is amended to read as follows:

(1) At least one (1) hour prior to the opening of the polls, the county clerk shall deliver each machine, with the operating device and mechanism and the device covering the registering counters securely locked, to the clerk of the precinct in which it is to be used, and shall take a receipt therefor indicating the distinguishing number of the machine. The clerk of the precinct shall cause the machine to be arranged in the voting place in such a manner that the front of the machine, on which appear the ballot labels and the operating devices, will not be visible, when being operated, to any person other than the voter.

(2) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall, at least one hour prior to the opening of the polls, deliver a sufficient number of ballots for the registered voters of each precinct, a sufficient number of voting booths for voting paper ballots, string, rubber stamps for marking "Spoiled" and "Unused" ballots and a locked ballot box for each precinct. The county clerk shall take a receipt for the number of ballots issued and the ballot box for each precinct. The county clerk shall retain the keys to all ballot boxes.

Section 6. KRS 117.215 is amended to read as follows:

(1) If, during the conduct of an election, a machine becomes in a state of disrepair so that it cannot be operated in a manner that will comply with the provisions of this chapter, the election officers shall lock or seal the machine in such a manner as to prevent further voting thereon and record the numbers shown by the public counter. Then the election officers shall secure from the county clerk a reserve voting machine, which shall be prepared and made ready for use as provided in KRS 117.205, and thereupon proceed to conduct the election. When the polls are closed both the original and reserve voting machines shall be examined and the votes thereon registered shall be counted as provided in KRS 117.275 and the aggregate number of votes cast on both machines for each candidate and on each question shall be certified as the result of the election in that precinct.

(2) If an emergency should arise *due to the malfunction of the voting machine,* the county clerk shall provide *a backup voting machine or* special ballots for use at the precinct and a ballot box in which to deposit the voted ballots. The ballot box shall be locked with two (2) locks and the judges of the precinct shall each hold the key to one (1) lock. At the close of voting, the ballots shall be counted *at the precinct or a central counting center* and added to the votes cast by machine. The aggregate of these votes shall be certified as the result of the election in that precinct.

Section 7. KRS 117.225 is amended to read as follows:

(1) Any person desiring to vote on election day shall give his name and address to the clerk of the election. If the person's name is listed on the precinct list furnished by the state board of elections as provided in KRS 117.025 or as provided in KRS 117.015, and if no challenge is made, he shall sign his name on the precinct list in the space opposite his printed name. The voter's signature shall constitute his verification that he is a properly registered and qualified voter. The voter shall then retire alone to cast his vote on the voting machine. There shall be provided by the county board of elections to each precinct the original registration form of each voter entitled to vote in that precinct. This form shall be for comparative signature purposes.

(2) If supplemental paper ballots are used, as provided in KRS 118.215, after voting on the voting machine the voter shall take the supplemental paper ballot with the stub intact and retire alone to the voting booth provided for voting paper ballots. After voting the supplemental paper ballot, the voter shall remove the numbered stub, hand the stub to an election official and deposit the voted ballot in the locked ballot box.

Section 8. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the mechanical model, in the use of the machine, if the voter so requests.

(2) No voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability

he is unable to vote without assistance. Upon making and filing with the judges such oath, the voter shall retire to the voting machine, with the judges, and one of the judges shall then, in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer. The clerk shall swear the person accompanying the disabled or blind voter to operate the voting machine in accordance with the directions of the disabled or blind voter, and the disabled or blind voter and the person sworn shall then enter the voting booth and the one so sworn shall operate the machine for the disabled or blind voter as he directs. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance, and the judges of election shall enter in writing, on a record of assisted voters, the voter's name and the specific physical disability which required him to receive assistance.

(3) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(4) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(5) If the machine is so constructed as to require adjustment after one (1) person has voted before another person may vote, the judges of election shall so adjust it after each person has voted.

(6) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(7) In elections for president and vice president, if a voter is eligible to vote only for the office of president and vice president a judge of the election shall adjust the machine so that the voter will only be able to vote for president and vice president.

(8) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled", initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall then be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

Section 9. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any such precinct, any candidate and any representatives to witness and check the count of the votes therein, who are hereby authorized to be appointed as is provided in subsection (6) of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation, and they shall then sign a certificate stating:

(a) That the machine has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting machine, which certificate shall be returned by the judges of election to the officials authorized by law to receive the same. The judges shall then compare the number of voters, as shown by the counter of the machine, with the number of those who have voted as shown by the protective or accumulative counter or device.

(3) The judges, in the presence of the representatives mentioned in subsection (1), if any, and of all other persons who may be lawfully within the polling place, shall then make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the same, giving full view of all the counter numbers. The judges shall, under the scrutiny of such representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office-columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the judges. The total vote cast for each candidate, and for and against each question, and the votes written in, shall then be entered on the general and quadruplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective or accumulative counter or device on each machine immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the

case of primary elections, quadruplicate return sheets shall remain exposed to view until the said returns and all other reports have been fully completed.

(4) The proclamation of the result of the votes cast shall be announced distinctly and audibly by one of the judges of election, who shall read the name of the vote cast for each candidate and the vote for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the judges, after which the doors or other cover of the voting machine shall be closed and locked and the return sheet shall be signed by each of the judges of election. If any judge shall decline to sign such return, he shall state his reason therefor in writing, and a copy thereof, signed by him, shall be enclosed with such return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the judges shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and precinct list, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. Said envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes, the county board shall immediately mail the tabulation result, the general return sheets and the precinct lists from each precinct to the state board of elections.

(5) As soon as possible after the completion of the count, the election officers shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the clerk of the county court in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

(6) In primary elections, each candidate or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

(7) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be place in an envelope. The two precinct judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the secretary of state. The county board of elections shall authorize the candidates or their representatives and representatives of the news media to be present during the counting of the paper ballots. The county clerk shall retain the paper ballots for sixty days, after which time they shall be burned by the county board of elections if no contest or recount action has been filed.

SECTION 10. A NEW SECTION OF KRS 118.305 to 118.425 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of determining the order in which the names of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots under the designation of the respective offices, the secretary of state shall prepare lists of the counties of each congressional district of the state. He shall then arrange the surnames of all candidates for each office in alphabetical order for the first congressional district, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the secretary of state, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2 p.m. standard time, fifty-three (53) days before the general election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m., standard time, fifty-three (53) days before the general election.

(4) If the number of certified candidates cannot be placed on a ballot [illegible] on voting machines currently in use in the county, the county clerk shall notify the state board of elections as provided in KRS 118.215.

Section 11. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than fifty-five (55) days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the primary election.

(5) Not less than forty-five (45) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice. [Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.]

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot." Above the names of candidates for nomination shall be printed the words "Vote for one," or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(9) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 12. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(2) Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (1), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice. [Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.]

(4) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No

party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 13. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than seventy (70) days before the primary. If the vacancy occurs on or after the seventieth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and section 152 of the Constitution of Kentucky.

(2) Each candidate shall file a petition for candidacy with the secretary of state at least fifty-five (55) days before the day fixed by law for holding the regular election.

(3) The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy. The petition shall be in the form prescribed by the state board of elections.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(5) Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice. [Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.]

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 14. KRS 119.195 is amended to read as follows:

(1) Any person who, during an election, knowingly and willfully removes or attempts to remove *an official* [a special] ballot from the election room, or has in his possession outside the election room any *official* [special] ballot, either genuine or counterfeit, shall be imprisoned in the penitentiary for not less than two (2) years nor more than five (5) years.

(2) Any voter who attempts to leave the election room with *an official* [a special] ballot in his possession shall at once be arrested on demand of either of the judges of election and shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(3) Any person who takes or removes in any manner, feloniously or with the consent or permission of the custodian, any *official* [special] ballot from any place where it may lawfully be, or knowingly and willfully has in his possession or custody any such *official* [special] ballot except as an officer or custodian under the law or while within the polling place for the purpose of voting, and any custodian or officer who permits any *official* [special] ballot to be removed or carried away from the place where it may lawfully be by any person other than the officer or custodian whose duty it is to receive it, shall be imprisoned in the penitentiary, for not less than three (3) years nor more than ten (10) years.

(4) Any election officer, or other person entrusted with the custody or control of any *official* [special] ballot, either before or after it has been voted, who in any way marks, mutilates or defaces any *official* [special] ballot or places any distinguishing mark thereon, for the purpose of vitiating the *official* [special] ballot, shall be fined not more than two thousand dollars ($2,000) and imprisoned in the penitentiary for not less than five (5) years nor more than ten (10) years.

(5) Any person who unlawfully destroys or attempts to destroy any *official* [special] ballot box used, or any *official* [special] ballot deposited, at any election, or who unlawfully, by force, fraud or other improper means, obtains or attempts to obtain possession of any ballot box or any *official* [special] ballot therein deposited, while the voting at any election is going on or before the *official* [special] ballots are duly taken out and counted according to law, shall be confined in the penitentiary for not less than one (1) year nor more than five (5) years, and fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000).

(6) Any election officer who mutilates or tampers with any of the seals, or destroys or removes any *official* [special] ballots required to be preserved, shall be confined in the penitentiary for not less than one (1) year nor more than three (3) years.

(7) Any county clerk who knowingly and willfully opens any ballot box and removes any *official* [special] ballot therefrom, or removes,destroys or tampers with a ballot box and *official* [special] ballots left in his care and custody, or permits any other person to do so, during the period the boxes are required to remain locked in his office, shall be confined in the penitentiary for not less than one (1) year nor more than three (3) years.

(8) Any person who removes, mutilates or destroys, or adds any new *official* [special] ballots to, the regular *official* [special] ballots that have been counted and prepared for preservation, or that have already been preserved, so that the result of the election in the precinct or county is changed, shall be confined in the penitentiary for not less than one (1) year nor more than three (3) years.

(9) Any person who tampers with or changes the *official* [special] ballots, or opens the receptacles in which the *official* [special] ballots are contained without the order of the court, after the ballots have been sent to the Franklin County courthouse in connection with the contest of a constitutional amendment, shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than six (6) months nor more than one (1) year.

Section 15. KRS 424.290 is amended to read as follows:

(1) Not less than three days before any primary or regular election the county court clerk shall cause to be published in a newspaper a copy of the face of the voting machines. Where the voting machine faces differ for various precincts within the county, the county clerk shall cause to be published only one voting machine face with appropriate notations showing the differences in the various precincts. *If supplemental paper ballots have been approved as provided in KRS 118.215, the paper ballot shall be published at the same time as the face of the voting machine.* The cost of publication shall be paid by the county, except that the cost of publishing any voting machine face that is limited to a city election or a district election other than a school district election, shall be paid by the city or the district as the case may be.

(2) "Copy," as used in subsection (1) of this section, means a summary of a voting machine face showing all the pertinent information that will appear on a particular voting machine face.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Courts: **SB 15**

Recess

Representative B. Richardson moved that the House recess for ten minutes for a meeting of the Committee on Committees. Agreed.

The Speaker Pro Tempore assumed the Chair and called the House to order.

Recess

Representative B. Richardson moved that the House recess for a meeting of the Committee on Rules. Agreed.

The Speaker resumed the Chair and called the House to order.

Announcements (continued)

The following members filed Floor Amendments to Bills and Resolutions: Representative Holbrook, Floor Amendment No. 3 to **HB 29**; Representative White, Floor Amendment No. 6 to **HB 29**; Representative Robinson, Floor Amendment No. 5 to **HB 29**; Representative Robinson, Floor Amendment No. 4 to **HB 29**; Representative Tobin, Floor Amendment No. 3 to **HB 21**; Representative Deskins, Floor Amendment No. 3 to **HB 12.**

Representative Wells moved that the rules be suspended for Report of Committees and Reference of Bills and Resolutions. Agreed.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 43.**

Cities: **SB 12.**

Elections and Constitutional Amendments: **SB 1.**

Judiciary-Courts: **HB 44, HB 45, SB 10.**

Judiciary-Statutes: **HB 46, HB 47.**

State Government: **HR 25.**

Report of Committees

The Committee on Rules reported **HB 19, HB 6, HB 12,** and **HB 28** have been posted for passage on December 13, 1976.

The Committee on Rules reported the following Bills have been recommitted: **HB 16,** Appropriations and Revenue; **HB 30,** Appropriations and Revenue; **HB 10,** Counties and Special Districts; **HB 14,** Judiciary-Statutes; **HB 35,** Judiciary-Statutes.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **SB 12.**

Announcements (continued)

The Committee on Cities will meet at noon on Tuesday, December 14, 1976, Room 316.

The Committee on Appropriations and Revenue will meet on adjournment in Room 307 and on December 13, 1976 in Room 305, noon.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 3** had been examined and found correctly enrolled. **HB 3** read at length, compared, and signed in open session by the Speaker. Ordered delivered to the Senate.

Adjournment

Representative Wells moved that the House adjourn until 4:00 p.m., Monday, December 13, 1976.

The motion to adjourn was adopted by voice vote.

MONDAY, DECEMBER 13, 1976

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Dr. John C. Chenault, First Christian Church, Frankfort.

The roll was called. All present except Representative R. A. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of December 10, 1976, be dispensed with and the same approved. Agreed.

Representative B. Richardson moved that the rules be suspended for the purpose of nominating Constitutional Officers. Agreed.

Representative B. Richardson moved the nomination of the following House Constitutional Officers:

Doorkeeper	Emmitt Slattery
Page	Kathleen Louise Hoffman

Agreed.

The nominees were elected and the oath of office was administered by Justice John S. Palmore of the Supreme Court of Kentucky.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 2** had been examined and found correctly enrolled. **SB 2** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 3 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 48, by Representatives Donnermeyer and Mann: AN ACT relating to county courthouse districts and commissions in counties containing a city of the second class, and to provide for the levy of a courthouse district tax by the fiscal courts in such counties.

HCR 26, by Representative B. Richardson: A CONCURRENT RESOLTUION directing the Legislative Research Commission to conduct a study of the drivers licensing system in the Commonwealth.

HR 27, by Representatives Donnermeyer and Mann: A RESOLUTION urging the Kentucky Department of Transportation to study the feasibility of condemning the Shortway Bridge in Kenton and Campbell Counties.

Report of Committees

The Committee on Judiciary-Statutes reported **HB 14** and **HB 35** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Judiciary-Courts reported **SB 15** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 15, AN ACT relating to circuit court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 23A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) The circuit court is a court of general jurisdiction; it has original jurisdiction of all justiciable causes not exclusively vested in some other court.

(2) The circuit court has appellate jurisdiction as specified in this Act.

(3) The circuit court is a court of record and of continuous session.

(4) The circuit court may be authorized by law to adjudicate the actions or decisions of administrative agencies, special districts or boards. Such adjudication shall not constitute an appeal but an original action.

SECTION 2. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

The state is divided into judicial circuits, each to be composed of the following counties:

(1) First Judicial Circuit. Ballard, Carlisle, Fulton and Hickman.
(2) Second Judicial Circuit. McCracken.
(3) Third Judicial Circuit. Christian.
(4) Fourth Judicial Circuit. Hopkins.
(5) Fifth Judicial Circuit. Crittenden, Union and Webster.
(6) Sixth Judicial Circuit. Daviess.
(7) Seventh Judicial Circuit. Logan and Todd.
(8) Eighth Judicial Circuit. Warren.
(9) Ninth Judicial Circuit. Hardin.
(10) Tenth Judicial Circuit. Hart, Larue and Nelson.
(11) Eleventh Judicial Circuit. Green, Marion, Taylor and Washington.
(12) Twelfth Judicial Circuit. Henry, Oldham and Trimble.
(13) Thirteenth Judicial Circuit. Garrard, Jessamine and Lincoln.
(14) Fourteenth Judicial Circuit. Bourbon, Scott and Woodford.
(15) Fifteenth Judicial Circuit. Carroll, Grant and Owen.
(16) Sixteenth Judicial Circuit. Kenton.
(17) Seventeenth Judicial Circuit. Campbell.
(18) Eighteenth Judicial Circuit. Harrison, Nicholas, Pendleton and Robertson.
(19) Nineteenth Judicial Circuit. Bracken, Fleming and Mason.
(20) Twentieth Judicial Circuit. Greenup and Lewis.
(21) Twenty-first Judicial Circuit. Bath, Menifee, Montgomery and Rowan.
(22) Twenty-second Judicial Circuit. Fayette.
(23) Twenty-third Judicial Circuit. Estill, Lee and Owsley.
(24) Twenty-fourth Judicial Circuit. Lawrence, Johnson and Martin.
(25) Twenty-fifth Judicial Circuit. Clark and Madison.
(26) Twenty-sixth Judicial Circuit. Harlan.
(27) Twenty-seventh Judicial Circuit. Knox and Laurel.
(28) Twenty-eighth Judicial Circuit. Pulaski and Rockcastle.
(29) Twenty-ninth Judicial Circuit. Adair, Casey, Cumberland and Monroe.
(30) Thirtieth Judicial Circuit. Jefferson.
(31) Thirty-first Judicial Circuit. Floyd.
(32) Thirty-second Judicial Circuit. Boyd.
(33) Thirty-third Judicial Circuit. Perry.
(34) Thirty-fourth Judicial Circuit. Whitley and McCreary.
(35) Thirty-fifth Judicial Circuit. Pike.
(36) Thirty-sixth Judicial Circuit. Magoffin and Knott.
(37) Thirty-seventh Judicial Circuit. Carter, Elliott and Morgan.
(38) Thirty-eighth Judicial Circuit. Butler, Edmonson, Ohio and Hancock.
(39) Thirty-ninth Judicial Circuit. Breathitt, Wolfe and Powell.
(40) Fortieth Judicial Circuit. Clinton, Russell and Wayne.
(41) Forty-first Judicial Circuit. Clay, Jackson and Leslie.
(42) Forty-second Judicial Circuit. Calloway and Marshall.
(43) Forty-third Judicial Circuit. Barren and Metcalfe.
(44) Forty-fourth Judicial Circuit. Bell.
(45) Forty-fifth Judicial Circuit. Muhlenberg and McLean.
(46) Forty-sixth Judicial Circuit. Breckinridge, Grayson, and Meade.
(47) Forty-seventh Judicial Circuit. Letcher.
(48) Forty-eighth Judicial Circuit. Franklin.

(49) Forty-ninth Judicial Circuit. Allen and Simpson.
(50) Fiftieth Judicial Circuit. Boyle and Mercer.
(51) Fifty-first Judicial Circuit. Henderson.
(52) Fifty-second Judicial Circuit. Graves.
(53) Fifty-third Judicial Circuit. Shelby, Anderson and Spencer.
(54) Fifty-fourth Judicial Circuit. Boone and Gallatin.
(55) Fifty-fifth Judicial Circuit. Bullitt.
(56) Fifty-sixth Judicial Circuit. Caldwell, Livingston, Lyon and Trigg.

SECTION 3. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
Each judicial circuit shall have one (1) circuit judge, except as otherwise provided.

SECTION 4. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the circuit court:

(1) Second Judicial Circuit.
(2) Sixth Judicial Circuit.
(3) Eighth Judicial Circuit.
(4) Ninth Judicial Circuit.
(5) Seventeenth Judicial Circuit.
(6) Thirty-second Judicial Circuit.
(7) Thirty-fifth Judicial Circuit.
(8) Forty-eighth Judicial Circuit.

SECTION 5. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
The Sixteenth Judicial Circuit is entitled to four (4) judges and shall have four (4) numbered divisions of the circuit court.

SECTION 6. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
The Twenty-second Judicial Circuit is entitled to six (6) judges and shall have six (6) numbered divisions of the circuit court.

SECTION 7. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
The Thirtieth Judicial Circuit is entitled to sixteen (16) judges and shall have sixteen (16) numbered divisions of the circuit court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
(1) A direct appeal may be taken from district court to circuit court from any final action of the district court.

(2) The circuit court may issue all writs necessary in aid of its appellate jurisdiction, or the complete determination of any cause within its appellate jurisdiction.

SECTION 9. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
(1) The sheriff of the county in which the circuit court is sitting shall provide such deputies and ordinary equipment as the chief circuit judge shall deem necessary to provide security services to the court and its facilities.

(2) The sheriff shall be compensated for these duties at rates to be determined by law.

SECTION 10. A NEW SECTION OF KRS CHAPTER 452 IS CREATED TO READ AS FOLLOWS:
The following actions may be brought in the Franklin Circuit Court, or in any other circuit court having venue:

(1) Actions to collect the revenue and all other claims, demands and penalties due the Commonwealth, or to have satisfaction made of judgments in favor of the Commonwealth, except those actions which are prosecuted by an appeal to the Kentucky board of tax appeals under the provisions of KRS 131.110 and KRS 131.340.

(2) Actions against persons required to collect money due the Commonwealth, to pay money into the state treasury, or to do any other act connected with the payment of money into the state treasury after it has been collected, and against the sureties, heirs, devisees or representatives of such persons.

(3) Actions to surcharge and correct fee bills, accounts and settlements, with their debits and credits, and all claims against the treasury allowed and approved by any court in the Commonwealth to any person.

(4) Actions to recover any fraudulent, erroneous or illegal account, fee bill, charge, credit or claim approved and allowed or paid out of the treasury to any person.

(5) The defendant in any action brought in Franklin Circuit Court under the provisions of this statute shall at any time upon proper motion have a change of venue to the county in which he resides or his principal office or place of business is located at no cost to the defendant in Franklin Circuit Court.

The Committee on Appropriations and Revenue reported **SB 5** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Judiciary-Courts reported **HB 32,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute for **HB 32** is as follows:

HB 32, AN ACT relating to district court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 24A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) The district court is a court of limited jurisdiction, it has original jurisdiction in all matters specified in this Act.

(2) The district court may be authorized by law to adjudicate the actions or decisions of local administrative agencies, special districts, or boards. Such adjudication shall not constitute an appeal but an original action.

(3) The district court has no appellate jurisdiction.

(4) The district court is a court of record.

(5) The district court is a court of continuous session. Sessions of the district court may be scheduled at such times, including nights, weekends, and holidays, and at such locations, as may be convenient, subject to the direction of the Supreme Court by rule or order.

SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
The state is divided into judicial districts, each to be composed of the following counties:
(1) First Judicial District. Ballard, Carlisle, Fulton and Hickman.
(2) Second Judicial District. McCracken.
(3) Third Judicial District. Christian.
(4) Fourth Judicial District. Hopkins.
(5) Fifth Judicial District. Crittenden, Union and Webster.
(6) Sixth Judicial District. Daviess.
(7) Seventh Judicial District. Logan and Todd.
(8) Eighth Judicial District. Warren.
(9) Ninth Judicial District. Hardin.
(10) Tenth Judicial District. Hart, Larue and Nelson.
(11) Eleventh Judicial District. Green, Marion, Taylor and Washington.
(12) Twelfth Judicial District. Henry, Oldham and Trimble.
(13) Thirteenth Judicial District. Garrard, Jessamine and Lincoln.
(14) Fourteenth Judicial District. Bourbon, Scott and Woodford.
(15) Fifteenth Judicial District. Carroll, Grant and Owen.
(16) Sixteenth Judicial District. Kenton.
(17) Seventeenth Judicial District. Campbell.
(18) Eighteenth Judicial District. Harrison, Nicholas, Pendleton and Robertson.
(19) Nineteenth Judicial District. Bracken, Fleming and Mason.
(20) Twentieth Judicial District. Greenup and Lewis.
(21) Twenty-first Judicial District. Bath, Menifee, Montgomery and Rowan.
(22) Twenty-second Judicial District. Fayette.
(23) Twenty-third Judicial District. Estill, Lee and Owsley.
(24) Twenty-fourth Judicial District. Lawrence, Johnson and Martin.
(25) Twenty-fifth Judicial District. Clark and Madison.
(26) Twenty-sixth Judicial District. Harlan.

(27) Twenty-seventh Judicial District. Knox and Laurel.
(28) Twenty-eighth Judicial District. Pulaski and Rockcastle.
(29) Twenty-ninth Judicial District. Adair, Casey, Cumberland and Monroe.
(30) Thirtieth Judicial District. Jefferson.
(31) Thirty-first Judicial District. Floyd.
(32) Thirty-second Judicial District. Boyd.
(33) Thirty-third Judicial District. Perry.
(34) Thirty-fourth Judicial District. Whitley and McCreary.
(35) Thirty-fifth Judicial District. Pike.
(36) Thirty-sixth Judicial District. Magoffin and Knott.
(37) Thirty-seventh Judicial District. Carter, Elliott and Morgan.
(38) Thirty-eighth Judicial District. Butler, Edmonson, Ohio and Hancock.
(39) Thirty-ninth Judicial District. Breathitt, Wolfe and Powell.
(40) Fortieth Judicial District. Clinton, Russell and Wayne.
(41) Forty-first Judicial District. Clay, Jackson and Leslie.
(42) Forty-second Judicial District. Calloway and Marshall.
(43) Forty-third Judicial District. Barren and Metcalfe.
(44) Forty-fourth Judicial District. Bell.
(45) Forty-fifth Judicial District. Muhlenberg and McLean.
(46) Forty-sixth Judicial District. Breckinridge, Grayson, and Meade.
(47) Forty-seventh Judicial District. Letcher.
(48) Forty-eighth Judicial District. Franklin.
(49) Forty-ninth Judicial District. Allen and Simpson.
(50) Fiftieth Judicial District. Boyle and Mercer.
(51) Fifty-first Judicial District. Henderson.
(52) Fifty-second Judicial District. Graves.
(53) Fifty-third Judicial District. Shelby, Anderson and Spencer.
(54) Fifty-fourth Judicial District. Boone and Gallatin.
(55) Fifty-fifth Judicial District. Bullitt.
(56) Fifty-sixth Judicial District. Caldwell, Livingston, Lyon and Trigg.

SECTION 3. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
Each judicial district shall have one (1) district judge, except as otherwise provided.

SECTION 4. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
The following judicial districts are entitled to two (2) district judges and shall have two (2) numbered divisions of the district court:
(1) First Judicial District.
(2) Second Judicial District.
(3) Third Judicial District.
(4) Eighth Judicial District.
(5) Ninth Judicial District.
(6) Eleventh Judicial District.
(7) Twelfth Judicial District.
(8) Thirteenth Judicial District.
(9) Fourteenth Judicial District.
(10) Eighteenth Judicial District.
(11) Twenty-first Judicial District.
(12) Twenty-eighth Judicial District.
(13) Twenty-ninth Judicial District.
(14) Thirty-second Judicial District.
(15) Thirty-fifth Judicial District.
(16) Thirty-eighth Judicial District.
(17) Forty-sixth Judicial District.
(18) Fifty-first Judicial District.
(19) Fifty-third Judicial District.
(20) Fifty-fourth Judicial District.
(21) Fifty-sixth Judicial District.

SECTION 5. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The following judicial districts are entitled to three (3) district judges and shall have three (3) numbered divisions of the district court:

(1) Sixth Judicial District.
(2) Seventeenth Judicial District.
(3) Twenty-fifth Judicial District.

SECTION 6. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The Sixteenth Judicial District is entitled to four (4) district judges and shall have four (4) numbered divisions of the district court.

SECTION 7. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The Twenty-second Judicial District is entitled to six (6) district judges and shall have six (6) numbered divisions of the district court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The Thirtieth Judicial District is entitled to twenty-three (23) district judges and shall have twenty-three (23) numbered divisions of the district court.

SECTION 9. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) In any county which does not have a district judge resident in the county there shall be a trial commissioner.

(2) Trial commissioners shall be appointed in the manner required by Section 113 of the Constitution of Kentucky and shall perform such duties as may be directed by the Supreme Court.

(3) Trial commissioners in district court shall be compensated as provided in the judicial personnel system.

SECTION 10. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The district court shall have exclusive jurisdiction to make final disposition of all criminal matters, including violations of county, urban-county, or city ordinances or codes, except:

(1) Offenses denominated by statute as felonies or capital offenses; and
(2) Offenses punishable by death or imprisonment in the penitentiary.

SECTION 11. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

District court shall have exclusive jurisdiction in:

(1) Civil cases in which the amount in controversy does not exceed one thousand five hundred dollars ($1,500), exclusive of interest and costs except matters affecting title to real estate and matters of equity; and

(2) Matters involving probate, except matters contested in an adversary proceeding. Such adversary proceeding shall be filed in circuit court in accordance with the Kentucky Rules of Civil Procedure and shall not be considered an appeal.

(3) Papers relating to uncontested probate matters shall be filed in the office of the county court clerk. In the event a probate matter is contested, the Supreme Court shall by rule, provide for filing duplicate papers in circuit and county clerk's offices.

SECTION 12. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The juvenile jurisdiction of district court shall be exclusive in all cases relating to minors in which jurisdiction is not vested by law in some other court.

SECTION 13. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) When sessions of district court are held in:
(a) The county courthouse or other county-owned facility;
(b) Urban-county facilities;
(c) State-owned, leased, or controlled facilities;
(d) Special district facilities; or
(e) Private facilities;

the sheriff shall be responsible for attending court, keeping order, and providing the same services to district court as are provided to the circuit court.

(2) The sheriff shall be compensated for these services in the same manner and at the same rates as for similar services rendered to the circuit court.

(3) When sessions of district court are held in city facilities the city police or city marshal, as appropriate, shall be responsible for attending court, keeping order, and providing the same services to district court as are provided by the sheriff to circuit court. Compensation for these services shall be the same as

allowed to the sheriff as provided in subsection (2) of this section.

(4) If the administrative office of the courts determines that the provision of services by any law enforcement officer or agency named herein would place an undue burden on such officer or agency the administrative office of the courts may arrange with any other law enforcement officer or agency in the Commonwealth to provide such services. Compensation shall be as provided in subsection (2) of this section.

SECTION 14. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:
The salary of each district judge, payable out of the state treasury, shall be twenty-seven thousand five hundred dollars ($27,500) per annum.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Elections and Constitutional Amendments: **SB 1.**

State Government: **HJR 25.**

Calendar

HR 16 and **HB 26** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative B. Richardson moved that the Clerk read the amended call of the First Extraordinary Session of the General Assembly for 1976 from Governor Julian M. Carroll. Agreed.

PROCLAMATION

by the

Governor

of the

COMMONWEALTH OF KENTUCKY

To The General Assembly Of The Commonwealth Of Kentucky And To All Whom These Presents Shall Come:

Pursuant to the power vested in me by Section 80 of the Constitution of Kentucky to convene the General Assembly into Extraordinary Session, I, Julian M. Carroll, Governor of Kentucky, do issue this, my proclamation, convening the General Assembly of Kentucky in Extraordinary Session at the Seat of Government, Frankfort, Kentucky, at 1:30 p.m. (EST), Wednesday, December 1, 1976, for the sole purpose of considering the following subjects:

(1) The enactment of legislation to implement Sections 109 through 124 of the Constitution of Kentucky, including the schedule of transitional provisions in Section 2 of Chapter 84 of the Acts of the 1974 General Assembly, and the enactment of the necessary legislation relating to the duties, functions, compensation and expenses of officials and the responsibilities of governmental entities affected thereby and to provide for the levy, assessment, collection, accounting and disposition of fees, fines, forfeitures and costs from the Court of Justice and to make all necessary appropriations of funds and to provide the necessary facilities, personnel and services required by such enactments.

(2) The enactment of legislation relating to a certification program for underground coal miners, authorizing the employment of mine safety analysts by the Department of Mines and Minerals, revising KRS Chapters 351 and 352 as they pertain to mine safety, and appropriating the necessary funds therefor.

(3) The enactment of legislation regarding the imposition of sentences for capital offenses.

(4) The enactment of legislation pertaining to metropolitan sewer districts in counties containing cities of the first class.

(5) The amendment of KRS 342.730, 342.740 and 342.750 to increase benefits for disability to sixty-six and two-thirds (66 2/3%) percent of an employee's average weekly wage not to exceed sixty (60%) percent of the average weekly wage of the state; to enact legislation limiting the minimum benefits provided in KRS 342.740(1) to awards for total disability, providing for an increase of benefits for permanent partial disability to such minimum and a corresponding decrease in the compensable period where the benefits are less than the minimum so provided; to enact legislation to provide for the payment to the estate of an employee with no statutory dependents whose death is directly attributable to a work related injury the sum of ten thousand ($10,000) dollars in addition to the amount provided in KRS 342.720, subject to a credit for any income benefits previously paid for the same injury.

(6) The enactment of legislation amending KRS 342.122 as it pertains to the method by which assessments are levied upon self-insured employers and to amend KRS 342.345, 342.350 and 342.495-.550 relating to methods of providing workmen's compensation insurance.

(7) The repeal of KRS 61.928 and re-enactment of KRS 61.360.

(8) The amendment of KRS 278.047(2) by the addition of the word "electric" before the word "utilities."

(9) The amendment of KRS 136.070 relating to corporate license taxes to equalize the treatment of corporations operating through non-resident subsidiaries with those operating through divisions at the election of the taxpayer corporation and to make provision for defining the "capital" of a holding company.

(10) The enactment of legislation relating to enrollment in a qualified health maintenance organization as an option to regular group health benefits by state and local government employees.

(11) The amendment of KRS 139.170 to clarify the fact that the sales tax exemption applicable to "machinery for new and expanded industry" applies to machinery for processing and extracting industries.

(12) The enactment of legislation pertaining to the construction of wills and trusts in the application of Section 2002 (d)(1)(B)(iv) of the Federal Tax Reform Act of 1976.

(13) The enactment of legislation restoring the exemption from distribution and sale of personal property or money to the amount of three thousand five hundred ($3,500) dollars provided in KRS 391.030 to spouses renouncing the will of a deceased spouse.

(14) The enactment of legislation authorizing the establishment of a basic coverage compensation fund for the payment of claims for damages for malpractice against the University of Louisville and its agents.

(15) The enactment of legislation to authorize alternative methods for voting in any county where the presentation of all candidates comprising the official ballot cannot be accomplished upon existing equipment.

(16) The enactment of legislation amending KRS 16.055 relating to the promotion of state police personnel to the rank of sergeant.

(17) The enactment of legislation relating to the investigation and prosecution of criminal charges and the functions, duties, authority, compensation and expenses of the Attorney General, the Commonwealth's Attorneys, and the County Attorneys, and to appropriate the necessary funds therefor.

(18) The enactment of legislation amending KRS 138.220, 138.660, 234.320 to provide for the assumption by the state of an amount equal to any decrease in the rate or an increase in the tax credits provided by 26 U.S.C. 4081 and 26 U.S.C. 4041 imposed by the federal government.

(19) The enactment of legislation amending Part I, A(11)(c) of Chapter 55 of the 1976 Acts of the General Assembly to provide that any unexpended balance in the account for salary improvements for state employees at the close of the 1976-77 fiscal year shall not lapse, but shall continue into the 1977-78 fiscal year.

(20) The adoption of a resolution creating a commission to review the statutes on County Government and to make recommendations to the 1978 General Assembly, and to appropriate the necessary funds therefor.

(21) The enactment of legislation to make the necessary appropriations, and to amend any previous appropriations for such purpose, for the following agencies, departments, bureaus or programs:

(a) Kentucky Center for Energy Research;
(b) Council on Agriculture;
(c) General Contingency Fund;
(d) Kentucky Employes' Retirement System;
(e) Bureau of State Police;
(f) Bureau of Corrections;
(g) Executive Department for Finance and Administration;
(h) Department of Banking and Securities;
(i) Office of Public Defender;
(j) The Special Fund.

(22) The enactment of legislation to prohibit wagering or receiving, making, transmitting or negotiating, either in person or by messenger or agent, wagers except within the enclosure of a duly licensed race track during an authorized meeting at that track, and to provide a penalty for violation thereof.

I now reaffirm the consideration of those subjects set out above and add the following subject to be considered by the General Assembly:

(23) The enactment of legislation authorizing the establishment of a Mass Transit Revolving Loan fund within the Department of Transportation for administration under regulations to be promulgated by the Department and to amend Chapter 55 Part I (I)(72)(d), of the Acts of the 1976 General Assembly, and to authorize the use of $500,000 of the amount appropriated in each fiscal year for such purpose.

(24) The enactment of legislation to amend KRS 138.450 to provide that the "retail price" of new motor vehicles shall be the manufactuer's suggested retail price and of used motor vehicles shall be the reference manual value and a scheduled value of the reference manual amount for older vehicles with a trade-in allowance deduction authorized, subject to the enactment of a reduction in the federal motor fuels tax or an increase in the federal tax credits on motor fuels contingent upon the state's levy of such amount.

(25) The enactment of legislation establishing the maximum compensation, fees, commissions or other charges paid to or received by insurance companies for the assessments and taxes collected from their insureds for payment to the Special Fund and Maintenance Fund.

(26) The enactment of legislation amending KRS 186.480 relating to examinations for operators' licenses.

(27) The enactment of legislation relating to county courthouse districts and commissions in counties containing a city of the second class and to provide for the levy of a courthouse district tax by the fiscal courts in such counties.

DONE AT THE CAPITOL, in the City of Frankfort, this the 13th day of December, in the year of Our Lord One Thousand Nine Hundred Seventy-six and in the year of the Commonwealth the One Hundred Eighty-fifth.

JULIAN M. CARROLL
GOVERNOR

Drexell R. Davis
Secretary of State

The Speaker Pro Tempore Clapp presiding.

Representative B. Richardson requested that his name be added as a co-sponsor of **HB 12.**

Representative Hardwick requested that his name be added as a co-sponsor of **HB 16.**

Representative Lindsay moved that his name be withdrawn as sponsor of **HB 12.**

On the roll call the vote was yeas 41-B. Adams, Arnold, Bendl, Bennett, Blandford, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clarke, Cooper, Crupper, Cyrus, Denham, Deskins, Doss, Dunn, Fitzgerald, Gay, Gray, Guenthner, Holbrook, Holloway, Hopkins, Kleier, Lindsay, Mann, McBride, Morris, Muncy, Nett, O'Brien, Pearl, Rattliff, Romines, Schmidt, Siemens, Tobin, Wible, Wooden. Nays 35-A. S. Adams, J. Allen, W. Allen, Bevins, Blythe, Brown, Clapp, Craddock, DeFalaise, DeMarcus, Dietz, Donnermeyer, Floyd, Foster, Hancock, Hardwick, Head, Hughes, Hurst, Imes, Isler, Kidd, Mason, McNutt, Overstreet, Richards, B. Richardson, P.

Richardson, Robinson, Sale, Stephens, Stewart, Vincent, White, Wright.

The motion that Lindsay's name be withdrawn as sponsor of **HB 12** was defeated.

Representative Overstreet moved that the vote by which the motion that Lindsay's name be withdrawn as sponsor of **HB 12** was defeated be reconsidered.

On the roll call the vote was yeas 61-B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Bevins, Blair, Blandford, Blume, Brinkley, Bruce, Burnette, Carpenter, Clarke, Cyrus, DeFalaise, Denham, Deskins, Doss, Dunn, Fitzgerald, Foster, Freeman, Gay, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Imes, Kidd, Lindsay, Mann, Mason, McBee, McBride, McGill, McNutt, Morris, Muncy, O'Brien, Overstreet, Pearl, Rattliff, Richards, P. Richardson, Romines, Sale, Schmidt, Siemens, Tobin, Thomas, J. R. Turner, White, Wible, Wooden, Yates. Nays 5-Craddock, Hurst, LeMaster, B. Richardson, Stephens.

The motion that the vote by which the motion that Lindsay's name be withdrawn as sponsor of **HB 12** was defeated be reconsidered was adopted.

Representative Lindsay moved that his name be withdrawn as sponsor of **HB 12.**

On the roll call the vote was yeas 72-B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Blair, Blandford, Blume, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Gay, Gray, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kidd, Kleier, Lindsay, Little, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, Thomas, J. R. Turner, Wible, Wooden, Yates. Nays 6-A. S. Adams, Bevins, Clapp, Foster, Hancock, Stephens.

The motion that Representative Lindsay's name be withdrawn as sponsor of **HB 12** was adopted.

The following members filed Floor Amendments to Bills and Resolutions: Representative Kenton, Floor Amendment No. 1 to **HB 15;** Representative B. Richardson, Floor Amendments No. 5 and 6 to **HB 23;** Representative Kleier, Floor Amendment No. 4 to **HB 21;** Representative Hopkins, No. 1 to Committee Substitute for **HB 26;** Representative Givhan, No. 1 to Committee Substitute for **HB 32;** Representative Hancock, Floor Amendment No. 2 to Committee Substitute for **HB 32;** Representative Robinson, Floor Amendment No. 3 to Committee Substitute for **HB 32;** Representative Siler, Floor Amendment No. 4 to Committee Substitute for **HB 32;** Representative DeMarcus, No. 5 to Committee Substitute for **HB 32;** Representative Cooper, Floor Amendment No. 6 to Committee Substitute for **HB 32;** Representative Dawahare, No. 7 to Committee Substitute for **HB 32;** Representative Deskins, Floor Amendment No. 4 to **HB 28;** Representative Hopkins, Floor Amendment No. 1 to **SB 1;** Representative Allen, Floor Amendment No. 2 to **SB 5;** Representative Freeman, Floor Amendment No. 3 to **SB 5;** Representative Romines, Floor Amendment No. 1 to **SB 10;** Representative Kleier, Floor Amendment No. 1 to **HB 35;** Representative Deskins, Floor Amendment No. 1 to **HB 24.**

Representatives Imes, Bruce, Morris, and Craddock requested that their names be added as co-sponsors of **HB 4.**

Representative Fitzgerald moved that **HB 23** be recommitted to the Committee on Judiciary-Courts.

On the roll call the vote was yeas 49-Ackerson, A. S. Adams, W. Allen, Bendl, Bennett, Beshear, Blair, Blume, Blythe, Bruce, Carpenter, Clarke, Cooper, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Doss, Dunn, Fitzgerald, Freeman, Gay, Gray, Holbrook, Hopkins, Hughes, Hurst, Jones, Kidd, Kleier, LeMaster, Lindsay, Mason, Maynard, McBride, McGill, Morris, Nett, O'Brien, Pearl, Priddy, Robinson, Romines, Schmidt, Siemens, Siler, Wooden, Yates. Nays 39-B. Adams, J. Allen, Arnold, Benson, Bevins, Blandford, Boatwright, Brown, Burnette, Clapp, Craddock, Crupper, Dietz, Donnermeyer, Foster, Guenthner, Hancock, Head, Holloway, Imes, Isler, Kenton, Little, Mann, May, McBee, McNutt, Richards, B. Richardson, P. Richardson, Sale, Stephens, Tobin, Thomas, J. R. Turner, Wells, White, Wible, Wright.

The motion that **HB 23** be recommitted to the Committee on Judiciary-Courts was adopted.

The Clerk announced the following Committee meetings:

Committee on Cities, Room 327, noon, December 14, 1976.

Committee on State Government, will not meet on December 14, 1976.

Committee on Elections and Constitutional Amendments, 1:00 p.m., December 14, 1976, Room 305.

Committee on Counties and Special Districts, 10:00 a.m., December 14, 1976, Room 9.

Committee on Appropriations and Revenue, 10:00 a.m., December 14, 1976, Room 305.

Committee on Judiciary-Courts, 11:00 a.m., December 14, 1976, Room 305.

The Speaker resumed the Chair.

Representative Deskins requested that he be recorded as voting "yea" on **HB 17.**

Representative Morris requested that he be recorded as voting "yea" on **HB 17, HB 18, SB 2,** and **SB 8.**

Representative B. Richardson moved that the rules be suspended for recess for meetings of the Committees on Appropriations and Revenue and Judiciary-Courts to consider **HB 23.**

On the roll call the vote was yeas 57-B. Adams, J. Allen, Arnold, Bendl, Benson, Bevins, Blume, Bruce, Burnette, Clapp, Clarke, Cyrus, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Foster, Freeman, Gay, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Imes, Isler, Kenton, Kidd, Little, Mann, Mason, May, Maynard, McBee, McGill, Morris, Muncy, O'Brien, Richards, B. Richardson, Robinson, Sale, Schmidt, Stephens, Stewart, Tobin, Thomas, J. R. Turner, Vincent, Wells, White, Wible, Wright, Yates. Nays 22-Ackerson, W. Allen, Beshear, Blair, Blandford, Boatwright, Brinkley, Cooper, Crupper, Dawahare, DeFalaise, Gray, Hancock, Hughes, Hurst, Kleier, LeMaster, McNutt, Nett, Priddy, Siler, Wooden.

The motion that the rules be suspended was adopted.

Recess

Representative B. Richardson moved that the House recess for a meeting of the Committee on Appropriations and Revenue in Room 307 and the Committee on Judiciary-Courts in Room 305, to reconvene at 5:50 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative B. Richardson moved that when the House adjourns, it do so by voice vote and until 2:00 p.m., Tuesday, December 14, 1976. Agreed.

Representative B. Richardson moved that no other business be conducted on this day with the exception of Introduction of Bills and Resolutions and Report of Committees. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions in Orders of the Day be deferred and that they retain their position. Agreed.

Recess

Representative B. Richardson moved that the House recess until 6:50 p.m. Agreed.

Announcements

Speaker Kenton, presiding.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 49, by Representatives Deskins and Little: AN ACT relating to Justices of the Peace.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 4,** with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.220 is amended to read as follows:

(1) An excise tax of nine cents per gallon shall be paid on all gasoline received in this state. No other excise or license tax shall be levied or assessed on gasoline by the state or any political subdivision of the state. The tax herein imposed shall be paid by the dealer receiving the gasoline to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340. Nothing herein contained shall authorize or require the collection of the tax upon any gasoline after it has been once taxed under the provisions of this section.

(2) In the event that, on or after January 1, 1977, 26 U.S.C. 4081 is amended by either decreasing the rate of taxation on gasoline, or by increasing the amount of gasoline tax credits, then the state gasoline tax, as imposed by this section, shall automatically increase by an amount equal to the federal gasoline tax decrease or credit increase.

Section 2. KRS 138.565 is amended to read as follows:

(1) An excise tax of nine cents per gallon is hereby levied and shall be paid by the special fuels dealer to the department:

(a) For all special fuels delivered into any tank or other container equipped with a hose or other apparatus designed to dispense such fuels into the fuel supply tank of a motor vehicle except when such deliveries are made to another licensed special fuels dealer. The tax imposed by this section shall not apply to special fuels delivered into storage facilities of consumers or persons engaged in the business of selling special fuels for use in motor vehicles when such special fuels are to be sold or used for nonhighway purposes and provided that the storage facilities for such special fuels have been approved and identified as nontaxable storage pursuant to regulations of the department provided that the department may not refuse to approve such nontaxable storage except for adequate cause.

(b) For all special fuels withdrawn by any special fuels dealer and dispensed into the fuel supply tank of a motor vehicle. An allowance of one percent of the tax shall be made to the special fuels dealer to cover unaccountable losses, bad debts, and handling and reporting the tax. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the special fuels dealer to collect the tax, it shall be presumed that all special fuels delivered by any special fuels dealer within this state are taxable unless the contrary is established by the special fuels dealer pursuant to regulations prescribed by the department.

(2) No other excise or license tax shall be levied or assessed on special fuels by any political subdivision of the state.

(3) In the event that, on or after January 1, 1977, 26 U.S.C. 4041 is amended by either decreasing the rate of taxation on diesel fuel and other special motor fuels, or by increasing the amount of diesel and special motor fuels tax credits, then the state special fuels tax, as imposed by this section, shall automatically increase by an amount equal to the federal diesel and special motor fuels tax decrease or credit increase.

Section 3. KRS 138.660 is amended to read as follows:

(1) Every motor carrier shall pay a tax of nine cents per gallon on the amount of gasoline and nine cents per gallon on the amount of special fuels used in operations on the public highways of this state.

(2) In the event that, on or after January 1, 1977, 26 U.S.C. 4041 or 4081 are amended by either decreasing the rate of taxation on gasoline, or diesel and other special motor fuels, or by increasing the amount of gasoline, or diesel and special motor fuels tax credits, then the corresponding state motor carrier gasoline or special fuels taxes, as imposed by subsection (1) of this section, shall automatically increase by an amount equal to the federal gasoline or diesel and special motor fuels tax decrease or credit increase.

(3) [(2)] In addition to the tax imposed in subsection (1), if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax of two cents per gallon on the amount of gasoline and special fuels used in operations on public highways of this state.

(4) [(3)] The tax levied under subsections (1) and (2) of this section shall be computed and paid as provided in KRS 138.690.

Section 4. KRS 234.320 is amended to read as follows:

(1) An excise tax of nine cents per gallon is hereby levied and shall be paid by the liquefied petroleum gas motor fuel dealer to the department on all taxable liquefied petroleum gas motor fuel delivered to the licensed liquefied petroleum gas motor fuel user-seller or withdrawn by the liquefied petroleum gas motor fuel dealer to propel motor vehicles on the public highways, either within or without this state. An allowance of one percent of the tax shall be made to liquefied petroleum gas motor fuel dealer to cover unaccountable losses, bad debts, and handling and reporting the tax.

(2) In the event that, on or after January 1, 1977, 26 U.S.C. 4041 is amended by decreasing the rate of taxation on special motor fuels, or by increasing the amount of special motor fuels tax credits, then the state liquefied petroleum gas motor fuel tax, as imposed by this section, shall automatically increase by an amount equal to the federal special motor fuels tax decrease or credit increase.

(3) [(2)] No other excise or license tax shall be levied or assessed on liquefied petroleum gas motor fuel by any political subdivision of the state, except the licenses under KRS 234.120.

(4) [(3)] No provision of KRS 234.310 to 234.440 shall in any way affect the surtax imposed on heavy equipment motor carriers under KRS 138.660.

SECTION 5. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) In order to prevent unjust enrichment resulting from the consumption or sale of gasoline or special fuels or liquefied petroleum gas motor fuels on or after the date on which any state gasoline, special motor fuels, or liquefied petroleum gas motor fuels taxes are increased, pursuant to the provisions of this Act, upon which a tax of only nine cents per gallon has been paid into the state treasury, it is hereby declared to be the intent of the general assembly that all gasoline, special fuels, or liquefied petroleum gas motor fuels subject to tax under the provisions of KRS Chapters 138 and 234 which are stored, consumed, or sold on and after the effective date of such state tax increases shall be subject to such additional tax in accordance with such an increase, the total amount of such tax to be determined by the department of revenue. The additional tax which may be levied under the provisions of this Act shall be implemented and collected as follows:

(a) All licensed gasoline, special fuels, and liquefied petroleum gas motor fuels dealers subject to such a tax increase shall report, in a manner and form to be prescribed by the department of revenue, the amount of such fuels on hand at the close of business on the day first preceding the effective date of such tax increases upon which a tax of nine cents per gallon has been paid or accrued and shall remit to the department of revenue such additional tax on each such gallon of gasoline, special fuels, or liquefied petroleum gas motor fuels as required to meet the total increased tax as determined by that department. Such report and tax shall be due and payable on the date prescribed by the department of revenue.

(b) All other persons having gasoline, special fuels, or liquefied petroleum gas motor fuels subject to such a tax increase on hand at the close of business on the day first preceding the effective date of such tax increases which has been subjected to a tax of only nine cents per gallon shall remit to the department of revenue such additional tax on each such gallon of gasoline, special fuels, or liquefied petroleum gas motor fuels as required to meet the total increased tax as determined by that department. Such additional tax shall be due and payable on the date prescribed by the department, and such persons shall file such reports and keep such records in respect thereof as may be prescribed by the department.

(2) Notwithstanding the provisions of subsection (1) of this section, the additional tax which may be levied by this Act shall not be applicable to gasoline, special fuels, or liquefied petroleum gas motor fuels which is in the fuel supply tank of any internal combustion engine.

SECTION 6. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days subsequent to the enactment of federal law either decreasing gasoline, diesel, or special motor fuels tax rates, or increasing related tax credits, under the provisions of Title 26 of the United States Code, the attorney general of this state shall issue a finding confirming such a federal action and

detailing the amount of such a tax rate reduction or tax credit increase. Within thirty (30) days subsequent to such an attorney general's finding, the department of revenue shall formally announce the extent by which the corresponding state gasoline, special fuels, or liquefied petroleum gas motor fuels taxes shall be increased pursuant to the provisions of this Act.

(2) All provisions of this Act shall become effective ninety (90) days subsequent to the enactment of federal law which either decreases gasoline, diesel, or special motor fuels tax rates, or increases related tax credits, under the provisions of Title 26 of the United States Code.

The Committee Substitute for **HB 4** is as follows:

HB 4, AN ACT relating to revenue and taxation.

WHEREAS, legislation introduced in the last session of Congress would have provided a federal tax decrease equivalent to one cent a gallon in states which increased its own gasoline tax by one cent or more per gallon; and

WHEREAS, provided a state did not increase its own tax, the federal government would continue to collect the one cent tax and channel the revenue into the U. S. General Fund; and

WHEREAS, the new Congress could enact such legislation that would become effective prior to the next regular session of the Kentucky General Assembly; and

WHEREAS, in such event, Kentucky would be missing an opportunity to receive much needed additional revenue at the rate of approximately $20 million a year without any increase in tax to the Kentucky consumer of gasoline; and

WHEREAS, this loss could be avoided by enactment of legislation that would automatically increase the Kentucky gasoline tax by the same amount of the federal decrease, in the event of such federal legislation; and

WHEREAS, the enactment of such legislation would, in no way, increase the total gasoline tax paid by Kentucky consumers; and

WHEREAS, the motor vehicle usage tax law now provides an allowance for trade-ins on used motor vehicles but not on new motor vehicles; and

WHEREAS, to equalize the trade-in provision for both new and used motor vehicles would reduce by approximately one-half the additional revenue from the one cent gasoline tax;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.220 is amended to read as follows:

(1) Except as provided in paragraph (2), an excise tax of nine cents per gallon shall be paid on all gasoline received in this state. No other excise or license tax shall be levied or assessed on gasoline by the state or any political subdivision of the state. The tax herein imposed shall be paid by the dealer receiving the gasoline to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340. Nothing herein contained shall authorize or require the collection of the tax upon any gasoline after it has been once taxed under the provisions of this section.

(2) In the event that, on or after January 1, 1977, the federal government enacts a law whereby the federal tax on gasoline is reduced, by tax credits, or reduced rate, in any state which increases its own tax by the minimum specified amount, the rate in paragraph (1) above shall automatically increase by the minimum amount required to pick up the federal credit or decrease in federal tax.

Section 2. KRS 138.565 is amended to read as follows:

(1) *Except as provided in paragraph (3),* an excise tax of nine cents per gallon is hereby levied and shall be paid by the special fuels dealer to the department:

(a) For all special fuels delivered into any tank or other container equipped with a hose or other apparatus designed to dispense such fuels into the fuel supply tank of a motor vehicle except when such deliveries are made to another licensed special fuels dealer. The tax imposed by this section shall not apply to special fuels delivered into storage facilities of consumers or persons engaged in the business of selling special fuels for use in motor vehicles when such special fuels are to be sold or used for nonhighway purposes and provided that the storage facilities for such special fuels have been approved and identified as nontaxable storage pursuant to regulations of the department provided that the department may not refuse to approve such nontaxable storage except for adequate cause.

(b) For all special fuels withdrawn by any special fuels dealer and dispensed into the fuel supply tank of a motor vehicle. An allowance of one percent of the tax shall be made to the special fuels dealer to cover unaccountable losses, bad debts, and handling and reporting the tax. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the special fuels dealer to collect the tax, it shall be presumed that all special fuels delivered by any special fuels dealer within this state are taxable unless the contrary is established by the special fuels dealer pursuant to regulations prescribed by the department.

(2) No other excise or license tax shall be levied or assessed on special fuels by any political subdivision of the state.

(3) In the event that, on or after January 1, 1977, the federal government enacts a law whereby the federal tax on diesel fuel and other special motor fuels is reduced, by tax credits, or reduced rate, in any state which increases its own tax by the minimum specified amount, the rate in paragraph (1) above shall automatically increase by the minimum amount required to pick up the federal credit or decrease in federal tax.

Section 3. KRS 138.660 is amended to read as follows:

(1) *Except as provided in paragraph (2),* every motor carrier shall pay a tax of nine cents per gallon on the amount of gasoline and nine cents per gallon on the amount of special fuels used in operations on the public highways of this state.

(2) In the event that, on or after January 1, 1977, the federal government enacts a law whereby the federal tax on gasoline, or diesel and other special motor fuels is reduced, by tax credits, or reduced rate, in any state which increases its own tax by the minimum specified amount, the rate in paragraph (1) above shall automatically increase by the minimum amount required to pick up the federal credit or decrease in federal tax.

(3) [(2)] In addition to the tax imposed in subsection (1), if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax of two cents per gallon on the amount of gasoline and special fuels used in operations on public highways of this state.

(4) [(3)] The tax levied under subsections (1) and (2) of this section shall be computed and paid as provided in KRS 138.690.

Section 4. KRS 234.320 is amended to read as follows:

(1) *Except as provided in paragraph (2),* an excise tax of nine cents per gallon is hereby levied and shall be paid by the liquefied petroleum gas motor fuel dealer to the department on all taxable liquefied petroleum gas motor fuel delivered to the licensed liquefied petroleum gas motor fuel user-seller or withdrawn by the liquefied petroleum gas motor fuel dealer to propel motor vehicles on the public highways, either within or without this state. An allowance of one percent of the tax shall be made to liquefied petroleum gas motor fuel dealer to cover unaccountable losses, bad debts, and handling and reporting the tax.

(2) In the event that, on or after January 1, 1977, the federal government enacts a law whereby the federal tax on special motor fuels is reduced, by tax credits, or reduced rate, in any state which increases its own tax by the minimum specified amount, the rate in paragraph (1) above shall automatically increase by the minimum amount required to pick up the federal credit or decrease in federal tax.

(3) [(2)] No other excise or license tax shall be levied or assessed on liquefied petroleum gas motor fuel by any political subdivision of the state, except the licenses under KRS 234.120.

(4) [(3)] No provision of KRS 234.310 to 234.440 shall in any way affect the surtax imposed on heavy equipment motor carriers under KRS 138.660.

SECTION 5. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) In order to prevent unjust enrichment resulting from the consumption or sale of gasoline or special fuels or liquefied petroleum gas motor fuels on or after the date on which any state gasoline, special motor fuels, or liquefied petroleum gas motor fuels taxes are increased, pursuant to the provisions of this Act, upon which a tax of only nine cents per gallon has been paid into the state treasury, it is hereby declared to be the intent of the general assembly that all gasoline, special fuels, or liquefied petroleum gas motor fuels subject to tax under the provisions of KRS Chapters 138 and 234 which are stored, consumed, or sold on and after the effective date of such state tax increases shall be subject to such additional tax in accordance with such an increase, the total amount of such tax to be determined by the department of revenue. The additional tax which may be levied under the provisions of this Act shall be implemented and collected as follows:

(a) All licensed gasoline, special fuels, and liquefied petroleum gas motor fuels dealers subject to such a tax increase shall report, in a manner and form to be prescribed by the department of revenue, the amount of such fuels on hand at the close of business on the day first preceding the effective date of such tax increases upon which a tax of nine cents per gallon has been paid or accrued and shall remit to the department of revenue such additional tax on each such gallon of gasoline, special fuels, or liquefied petroleum gas motor fuels as required to meet the total increased tax as determined by that department. Such report and tax shall be due and payable on the date prescribed by the department of revenue.

(b) All other persons having gasoline, special fuels, or liquefied petroleum gas motor fuels subject to such a tax increase on hand at the close of business on the day first preceding the effective date of such tax increases which has been subjected to a tax of only nine cents per gallon shall remit to the department of revenue such additional tax on each such gallon of gasoline, special fuels, or liquefied petroleum gas motor fuels as required to meet the total increased tax as determined by that department. Such additional tax shall be due and payable on the date prescribed by the department, and such persons shall file such reports and keep such records in respect thereof as may be prescribed by the department.

(2) Notwithstanding the provisions of subsection (1) of this section, the additional tax which may be levied by this Act shall not be applicable to gasoline, special fuels, or liquefied petroleum gas motor fuels which is in the fuel supply tank of any internal combustion engine.

Section 6. KRS 138.450 is amended to read as follows:

As used in KRS 138.460 and 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "*Except as provided in paragraph (4),* retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be 90% of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual;

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(4) Notwithstanding the provisions of Paragraph (3) above, provided the tax on gasoline, diesel, other special motor fuels and liquefied petroleum gas is increased as provided in KRS 138.220(2), KRS 138.565(3), KRS 138.660(2), and KRS 234.320(2), "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	*75% of value of same make vehicle* last appearing in manual
2	*50% of value of same make vehicle* last appearing in manual
3	*25% of value of same make vehicle* last appearing in manual

All Others — *10% of value of same make vehicle* last appearing in manual

(d) A trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

SECTION 7. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days subsequent to the enactment of federal law either decreasing gasoline, diesel, or special motor fuels tax rates, or increasing related tax credits, the attorney general of this state shall issue a finding confirming such a federal action and detailing the amount of such a tax rate reduction or tax credit increase. Within thirty (30) days subsequent to such an attorney general's finding, the department of revenue shall formally announce the extent by which the corresponding state gasoline, special fuels, or liquefied petroleum gas motor fuels taxes shall be increased pursuant to the provisions of this Act.

(2) All provisions of this Act shall become effective ninety (90) days subsequent to the enactment of federal law which either decreases gasoline, diesel, or special motor fuels tax rates, or increases related tax credits.

The Committee Amendment to the Committee Substitute for **HB 4** is as follows:

Amend printed copy of Committee Substitute for House Bill 4 on page 3, line 5, by inserting the following subsection:

"*(3) However, in the event that the federal government inacts a law whereby the federal tax on gasoline is reduced and this tax reduction could be passed down as a net savings to the consumer, the provisions in subsection (2) above would not be operative.*"

The Committee on Rules reported **HR 16** and **HB 26** have been posted for passage in Orders of the Day, December 15, 1976.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Highways and Traffic Safety: **HR 27, HR 26.**

State Government: **HB 48.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Courts **HB 39, HB 44, HB 45, SB 10.**

Appropriations and Revenue: **HB 43.**

Highways and Traffic Safety: **HR 26.**

Judiciary-Statutes: **HB 46.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Tuesday, December 14, 1976.

The motion to adjourn was adopted by voice vote.

TUESDAY, DECEMBER 14, 1976

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Charles T. Bennett, United Methodist Church, Irvington, Kentucky.

The roll was called. All present except Representative R. A. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of December 13, 1976, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 16** and **SB 18.**

Introduction of Bills and Resolutions

HB 50, by Representatives Hopkins, Overstreet, and DeFalaise: AN ACT relating to state purchasing.

HR 28, by Representatives Mann and Donnermeyer: A RESOLUTION urging the Legislative Research Commission to conduct a study of the financing of transit authorities.

Report of Committees

The Committee on Judiciary-Courts reported **HB 23,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules

The Committee Substitute for **HB 23** is as follows:

HB 23, AN ACT relating to the court of justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:
When jurisdiction over any matter is granted to district court by statute, such jurisdiction shall be deemed to be exclusive unless the statute specifically states that the jurisdiction shall be concurrent.

SECTION 2. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:
(1) The district court has exclusive jurisdiction to make a final disposition of any charge or a public offense denominated as a misdemeanor or violation, except where the charge is joined with an indictment for a felony, and all violations of county, urban-county, or city ordinances and, prior to trial, to commit the defendant to jail or hold him to bail or other form of pretrial release.
(2) The district court has concurrent with circuit court jurisdiction to examine any charge of a public offense denominated as a felony or capital offense or which may be punished by death or imprisonment in the penitentiary and to commit the defendant to jail or hold him to bail or other form of pretrial release.
(3) The district court may, upon motion and for good cause shown, reduce a charge of a felony to a misdemeanor in accordance with the Rules of Criminal Procedure.

SECTION 3. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:
(1) Proceedings in any court having divisions shall be valid when prosecuted in any division thereof.
(2) Any judge presiding over a division of a court mentioned in subsection (1) may hear and determine any case or question in any other division.

SECTION 4. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section the following words or phrases shall have the meaning indicated:

(a) "Proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(b) "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(c) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

1. Ownership in a mutual or common investment fund that holds securities, or a proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, or ownership of government securities is a "financial interest" only if the outcome of the proceeding could substantially affect the value of the interest;

2. An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization.

(2) Any justice or judge of the Court of Justice or master commissioner shall disqualify himself in any proceeding:

(a) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings, or has expressed an opinion concerning the merits of the proceeding;

(b) Where in private practice or government service he served as a lawyer or rendered a legal opinion in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter in controversy, or the judge, master commissioner or such lawyer has been a material witness concerning the matter in controversy;

(c) Where he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a pecuniary or proprietary interest in the subject matter in controversy or in a party to the proceeding;

(d) Where he or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

1. Is a party to the proceeding, or an officer, director, or trustee of a party;

2. Is acting as a lawyer in the proceeding;

3. Is known by the judge or master commissioner to have an interest that could be substantially affected by the outcome of the proceeding;

4. Is to the knowledge of the judge or master commissioner likely to be a material witness in the proceeding.

(e) Where he has knowledge of any other circumstances in which his impartiality might reasonably be questioned.

(3)(a) Any justice or judge of the Court of Justice disqualified under the provisions of this section shall be replaced by the chief justice.

(b) Any master commissioner disqualified under the provisions of this section or unable to discharge the duties of his office for any other reason shall be replaced by a special commissioner who shall be appointed by the judge of the court before whom the action is pending. The special commissioner shall meet the same qualifications as a master commissioner and shall take an oath and execute a bond as the regular commissioner is required to do.

SECTION 5. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) When, from any cause, a judge of any circuit or district court fails to attend, or being in attendance cannot properly preside in an action pending in the court, or if a vacancy occurs or exists in the office of circuit or district judge, or if either party files with the circuit clerk his affidavit that the judge will not afford him a fair and impartial trial, or will not impartially decide an application for a change of venue, the circuit clerk shall at once certify the facts to the Chief Justice who shall immediately designate a regular or retired justice or judge of the Court of Justice as special judge. Any special judge so selected shall have all the powers and responsibilities of a regular judge of the court.

(2) A retired justice or judge serving as a special judge shall be compensated as provided by KRS 21A.110.

SECTION 6. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

Upon the death of a judge, or when from any cause the office is vacant, or when the judge is absent, his replacement or successor, no matter how chosen, may sign any orders of court left unsigned by his predecessor, the same as his predecessor might have done.

SECTION 7. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) The circuit and the district court shall be held in the county courthouse of each county unless otherwise ordered by the Supreme Court in which case it may be held at any other location made available by

the county and owned, leased, or controlled by the county. Circuit or district court may also be held in such other locations in the county as may be convenient and approved by the Supreme Court.

(2) Every county or urban-county government shall provide such reasonably available space which would not disrupt the operation of county government as necessary in the county courthouse, or in other county facilities as permitted in subsection (1), for:

(a) A courtroom or courtrooms for the circuit and the district court;
(b) Chambers for the circuit judge and district judge or judges;
(c) Office space for the circuit and district court staffs;
(d) Facilities for the circuit clerk's operations;
(e) Jury facilities for the circuit and the district court; and
(f) Such other facilities necessary for the operation of the circuit and the district court as may be agreed upon by the county or urban-county government and the administrative office of the courts.

(3) Every city shall, upon request of the administrative office of the courts, provide such reasonably available space as necessary in the city's facilities for the operations of circuit or district court, or both. The city shall be responsible for providing space for the operations listed in subsection (2) of this section.

(4) Every agency of state government, special district, and independent agency of local government, other than a city, may, upon the request of the administrative office of the courts, provide such space as necessary in facilities owned, leased, or controlled by such organization for the operations of circuit or district court, or both. The agency may provide space for the operations listed in subsection (2) of this section.

(5) If suitable facilities for the holding of circuit or district court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in public facilities, private facilities may be rented, leased, purchased, or otherwise acquired, by the administrative office of the courts pursuant to permission granted by the Chief Justice for such acquisition and in compliance with the provisions of KRS Chapters 45 and 56.

SECTION 8. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

Counties, urban-county governments, and cities providing space for court operations pursuant to Section 7 of this Act shall also provide adequate:

(1) Lighting;
(2) Heating;
(3) Electricity;
(4) Other utilities, except telephone service; and
(5) Janitorial service

as an adjunct to the providing of space required by that section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) All records, as defined in KRS 171.410(1), which are made by or generated for or received by any agency of the Court of Justice, or by any other court or agency or officer responsible to such court created under the present Constitution, or a former Constitution, whether pursuant to statute, regulation, court rule, or local ordinance shall be the property of the Court of Justice and are subject to the control of the Supreme Court.

(2) The Supreme Court shall determine which records were generated, made, or received by or for any court.

SECTION 10. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) The Supreme Court or the administrative office of the courts may, upon appropriate agreement, utilize the technical assistance and services of the Department of Library and Archives.

(2) When there is no further need for a record of the Court of Justice, the Supreme Court may offer the record to the Department of Library and Archives.

SECTION 11. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

All public officers, public agencies, or other persons having custody, control, or possession of court records by statute or otherwise shall be subject to the direction of the Supreme Court with regard to such records and no such officer, agency, or person shall fail to comply with any rule, regulation, standard, procedure, or order issued by the Chief Justice or his designee.

SECTION 12. KRS CHAPTER 29A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Court" means a circuit or district court of this Commonwealth and includes any judge of these courts.

(2) "Jury wheel" means any physical device or electronic system approved by the Supreme Court for the storage and random selection of the names or identifying numbers of prospective jurors.

(3) "Name" includes an identifying number.

SECTION 13. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

The Supreme Court may make and amend such procedural rules as may be necessary to implement the provisions of Sections 12 to 44 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The chief circuit judge for each county shall, not later than the first week of October of each year, appoint three (3) jury commissioners for the county to prepare a list of prospective jurors for the following year.

(2) Each jury commissioner shall be a citizen of the United States, eighteen (18) years of age or older and a resident of the county, and shall not be a party to any action pending in the Court of Justice, nor shall he hold any other public office or office in a political party.

(3) The compensation of the jury commissioners appointed under this section shall be twenty-five dollars ($25) for each day of ordered service. Each jury commissioner shall, in addition, be reimbursed for his actual and necessary expenses incurred in the performance of his duties under this chapter.

(4) Each jury commissioner shall serve for a term of one year and may not succeed himself.

(5) The duties of the jury commissioners shall be to:

(a) Cause the master jury list to be compiled;

(b) Select names of prospective jurors from the master jury list, cause them to be placed in clear plastic capsules, and cause the capsules to be placed in the jury wheel;

(c) Deliver the wheel containing the names of prospective jurors to the circuit clerk; and

(d) Deliver the key to the wheel to the chief circuit judge or another judge designated by him.

(6) The jury commission shall meet at such times and places as may be designated by the chief circuit judge.

(7) The meetings of the jury commissioners will not be open to the public.

(8) If a commissioner cannot serve without completing his service, the chief circuit judge may appoint a person of like qualifications in his place.

SECTION 15. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) All voter registration lists and property tax rolls for the county shall constitute a master list of prospective jurors. Where possible, the jury commission shall acquire copies of these lists from the official having custody of the required lists. The jury commission shall consult the master list in the manner specified by this Act in the selection of prospective jurors.

(2) Public officers or employes having custody, possession, or control of any of the lists used in making the master list shall furnish a copy of the list to the jury commission without charge.

SECTION 16. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The jury commission for each county shall consult the master list and select the names of prospective jurors for the following year.

(2) No person shall solicit any jury commissioner, directly or indirectly,to select his name for prospective juror service.

(3) In counties with a population of twenty thousand (20,000) or more, the jury commission shall place the names or identifying numbers of prospective jurors in a jury wheel as follows:

(a) If the total number of prospective jurors on the master list is one thousand (1,000) or less, the names or identifying numbers of all of them shall be placed in the jury wheel.

(b) If there are more than one thousand (1,000) prospective jurors on the master list, the jury commission shall place in the wheel one thousand (1,000) plus not less than two percent (2%) of the total number of names on the master list.

(4) In counties with a population of less than twenty thousand (20,000), the jury commission shall place the names or identifying numbers of prospective jurors in a jury wheel as follows:

(a) If the total number of prospective jurors on the master list is five hundred (500) or less, the names or identifying numbers of all of them shall be placed in the jury wheel.

(b) If there are more than five hundred (500) prospective jurors on the master list, the jury commission shall place in the wheel five hundred (500) plus not less than two percent (2%) of the total number of names on the master list.

(5) If it appears to the chief circuit judge that the names in the jury wheel will be exhausted prior to the end of the year, he shall reconvene the commissioners. They shall select and place in the jury wheel as many additional names as may be required by the order of the chief circuit judge.

(6) The jury commission shall lock the jury wheel containing the names of the prospective jurors and deliver the wheel into the custody of the circuit clerk of the county by November 15 of each year. The jury commission shall deliver the key to the wheel into the custody of the chief circuit judge of the county or other judge designated by him.

(7) The jury commission may use the names or identifying numbers of prospective jurors in carrying out its duties under this section.

(8) The jury commission may use an electronic or mechanical system or device in carrying out its duties under this section.

SECTION 17. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) Each circuit or district judge shall inform the chief circuit judge of his needs for qualified jurors.

(2) To select a grand jury or a petit jury in circuit court, the clerk shall:

(a) Draw forty (40) names at random from the jury wheel;

(b) List the names, in the order drawn, from one (1) to forty (40);

(c) Place forty (40) numbered balls in a box and shake the box;

(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.

(3) To select a petit jury for a trial in district court, the clerk shall:

(a) Draw twenty (20) names at random from the jury wheel;

(b) List the names, in the order drawn, from one (1) to twenty (20);

(c) Place twenty (20) numbered balls in a box and shake the box;

(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.

(4) The names corresponding to the numbers on the balls which have been drawn shall constitute the petit jury. When alternate jurors are permitted the last ball or balls drawn, as the case may be, will represent the alternate jurors.

(5) As jurors are excused and new jurors are required additional balls shall be drawn from the box, one for each juror required, until all of the balls in the box have been exhausted.

(6) In the event that all of the balls in the box have been exhausted the box shall be refilled utilizing the process required by subsections (1) through (4) of this Section.

(7) The chief circuit judge shall regulate the random assignment of jurors for use in circuit and district courts. Any petit juror assigned to a judge of circuit or district court may be used by any other judge of any other branch or division of circuit or district court when jurors are needed.

(8) If a grand, petit, or other jury is ordered to be drawn, the judge thereafter shall cause each person drawn for jury service to be served with a summons requiring him to report for jury service at a specified time and place, unless otherwise notified by the court and, to be available for jury service for thirty (30) judicial days thereafter. The service of summons may be either made personally by the sheriff or sent by registered or certified mail, return receipt requested, addressed to him at his usual residence, business, or post office address. In either case, notice shall be mailed or served to the juror at least thirty (30) days before he is required to attend.

(9) When there is an unanticipated shortage of available jurors drawn from a jury wheel, the court may require the sheriff to summon a sufficient number of jurors selected at random by the judge from the jury wheel. Jurors summoned in this way need not be given the notice provided in subsection (8).

(10) Only persons duly qualified and summoned under this Act shall serve as jurors.

(11) If after making a fair effort in good faith, the judge is satisfied that it will be impracticable to obtain a jury free of bias in the county in which the prosecution is pending, he may obtain a sufficient number of jurors from some adjoining county in which the judge believes there is the greatest probability of obtaining impartial jurors. The judge shall request the chief circuit judge for the adjoining county to draw and summon as many jurors as are needed. Jurors summoned under this subsection need not be given the notice provided in subsection (8).

(12) The names of jurors drawn from the jury wheel shall be made available to the public.

SECTION 18. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The chief circuit judge shall cause to be mailed or delivered with the summons to each juror a juror qualification form accompanied by instructions to fill out and return the form by mail or hand delivery to the clerk within five (5) days after its receipt, or to be completed as otherwise directed. The juror qualification form shall be provided by the administrative office of the courts and subject to approval by the Chief Justice of the Supreme Court.

(2) The juror qualification form shall contain the prospective juror's signed declaration that his responses are true to the best of his knowledge and his acknowledgement that a willful misrepresentation of a material fact may be punished by a fine or by imprisonment, or both. Notarization of the juror qualification

form shall not be required.

(3) If the prospective juror is unable to fill out the form, another person may do it for him and shall indicate that he has done so and the reason therefor.

(4) Any prospective juror who fails to return a properly completed juror qualification form as instructed may be directed by the chief circuit judge to appear forthwith to fill out a juror qualification form. At the time of his appearance for jury service, any prospective juror may be questioned by the judge or his designee, but only with regard to his responses to questions contained on the form and grounds for his excuse or disqualification. Any information thus acquired shall be noted on the juror qualification form.

(5) A prospective juror who fails to appear as directed by the judge pursuant to subsection (4) of this section shall be ordered to appear and show cause for his failure to appear as directed. If the prospective juror fails to appear pursuant to the judge's order or fails to show good cause for his failure to appear as directed by the judge, he may be punished for contempt.

(6) No person shall willfully misrepresent a material fact on a juror qualification form.

(7) The contents of juror qualification forms shall be made available to parties or their attorneys of record unless the court determines in any instance in the interest of justice that this information shall be kept confidential or its use limited in whole or in part.

SECTION 19. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The chief circuit judge or another judge designated by him shall determine on the basis of the information provided on the juror qualification form whether the prospective juror is disqualified for jury service for any of the reasons listed in subsection (2) of this section. He shall enter this determination in the space provided on the juror qualification form and on the list of names drawn from the jury wheel. The chief circuit judge shall cause each disqualified juror to be immediately notified of his disqualification.

(2) A prospective juror is disqualified to serve on a jury if he:

(a) Is not a citizen of the United States; or

(b) Is not a resident of the county; or

(c) Is unable to speak and understand the English language; or

(d) Is incapable, by reason of his physical or mental disability, of rendering effective jury service; or

(e) Has been previously convicted of a felony and has not been pardoned by the Governor or other authorized person of the jurisdiction in which he was convicted; or

(f) Is presently under indictment; or

(g) Has served on a jury within the past twelve (12) months.

(3) There shall be no waiver of these disqualifications.

SECTION 20. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

There shall be no automatic exemptions from jury service.

SECTION 21. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) Upon the request of a prospective juror prior to his assignment to a trial court, the chief circuit judge, or after his assignment to a trial court, the trial judge may excuse such juror upon a showing of undue hardship, extreme inconvenience or public necessity.

(2) In his discretion the judge may excuse a juror from service entirely or may postpone the juror's service temporarily. Whenever possible the judge shall favor temporary postponement of service over permanent excuse. When excusing a juror, the judge shall record the juror's name, as provided in Section 19, and his reasons for granting the excuse.

SECTION 22. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

The contents of any records or papers used by the jury commission or the clerk in connection with the selection process and not required to be made public under this chapter shall not be disclosed, except in connection with the preparation or presentation of a motion under the Rules of Civil Procedure or the Rules of Criminal Procedure.

SECTION 23. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

After the jury wheel is emptied and refilled and all persons selected to serve as jurors have been discharged, all records and papers compiled in the selection process shall be preserved by the circuit clerk for the period prescribed by the Supreme Court.

SECTION 24. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

In any twelve (12) month period, a person shall not be required to:

(1) Serve or attend court for prospective service as a petit juror more than thirty (30) court days except when necessary to complete service in a particular case; or

(2) Serve on more than one grand jury; or
(3) Serve as both a grand and petit juror except as provided in Section 37 of this Act.

SECTION 25. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:
At the conclusion of his period of service as required by this Act, each juror shall be discharged.

SECTION 26. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) A person summoned for jury service who fails to appear as directed shall be ordered by the court to appear forthwith and show cause for his failure to comply with the summons. If he fails to show good cause for noncompliance with the summons, he may be punished for contempt.

(2) A juror who fails to give attention at court, or who leaves the courthouse while the court is in session, or who otherwise fails to complete jury service, without leave of the court, may be punished for contempt.

SECTION 27. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) An employer shall not deprive an employe of his employment, or threaten or otherwise coerce him with respect thereto, because the employe receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service.

(2) Any employer who violates subsection (1) of this section is guilty of a Class B misdemeanor.

(3) If an employer discharges an employe in violation of subsection (1) of this section, the employe may within ninety (90) days of such discharge bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employe with full seniority and benefits. Damages recoverable shall not exceed lost wages. If he prevails, the employe shall be allowed a reasonable attorney's fee fixed by the court.

SECTION 28. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) All jurors in circuit and district court shall be paid five dollars ($5.00) per day for jury service. In addition thereto, they shall be paid seven dollars and fifty cents ($7.50) per day as reimbursement of expenses incurred, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by such juror.

(2) Persons who appear in court in response to a summons for jury duty and who are not relieved from jury service shall receive full compensation for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service.

SECTION 29. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The sheriff, city police or city marshal, as appropriate, shall be responsible for meals, housing, and other incidental needs of grand jurors and petit jurors in circuit court and in district court when the jurors are kept overnight or otherwise sequestered when ordered to do so by the judge of the court for which the jurors were summoned. The expenses for such services shall be borne by the Court of Justice and such officer shall be reimbursed in accordance with regulations issued by the administrative office of the courts.

(2) The sheriff, city police or city marshal, as appropriate, shall be responsible for the transportation of jurors and other authorized persons to views of the scene or other locations authorized by the court pursuant to Section 42 of this Act. In criminal cases the expenses for such services shall be borne by the Court of Justice and the sheriff shall be reimbursed in accordance with regulations issued by the administrative office of the courts. Excepting views conducted under the Eminent Domain Act of Kentucky, in civil cases these expenses shall be paid by the party requesting the viewing.

(3) The sheriff, city police or city marshal, as appropriate, shall be responsbile for providing any specialized security personnel, equipment, and services which the judge, with the consent of the Chief Justice, shall deem necessary for the conduct of a trial in which the judge believes that special security precautions are necessary or desirable. The expenses for such services shall be borne by the Court of Justice and such officer shall be reimbursed in accordance with regulations issued by the administrative office of the courts. In such cases the judge may also request the Chief Justice to provide the services of the Kentucky state police to ensure proper security precautions relating to the case.

SECTION 30. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:
The court may adjourn the whole or part of the petit jury to any day of their required periods of service, but they shall not be paid for the time they stand adjourned. The grand jury may be adjourned in like manner without pay.

SECTION 31. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

A grand jury shall consist of twelve (12) persons, nine (9) of whom concurring, may find an indictment.

SECTION 32. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) A regular grand jury shall be summoned upon the order of the chief circuit judge. The grand jury shall be convened at least once every four (4) months at such time as may be designated by the circuit court. The court may require the grand jury to convene more often if the ends of justice or the needs of the county so require. The court may require the grand jury to convene if the Commonwealth's or county attorney certifies to the court that there are defendants who have been bound over to the grand jury and that there is a need for the grand jury to consider the return of any indictments.

(2) The Chief Justice may authorize any chief circuit judge to impanel an additional regular grand jury upon a showing that a single grand jury cannot handle the volume of business before the court.

(3) A regular grand jury shall remain in session until discharged by the court but shall not remain in session longer than twenty (20) days of actual court attendance except when necessary to complete work on a single case in which testimony has already been taken.

SECTION 33. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) Any chief circuit judge may summon for cause a special grand jury to deal with a situation requiring lengthy investigation which cannot be adequately handled during the term of the regular grand jury.

(2) A special grand jury shall remain in session until discharged by the court, but shall not remain in session longer than ninety (90) days, provided, however, that a special grand jury may be extended for additional ninety (90) day periods on the written order of the chief circuit judge.

SECTION 34. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

If a juror selected is incapable of serving as a grand juror but capable of serving as a petit juror, the judge may, for good cause shown, release the juror from grand jury service and retain him as a petit juror.

SECTION 35. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

The court shall swear the grand jury using an oath prescribed by the Supreme Court.

SECTION 36. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

The grand jurors shall elect one (1) of their members to be foreman. The foreman shall administer an oath, prescribed by the Supreme Court, to each witness who testifies before the grand jury.

SECTION 37. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

At any time for cause shown, the court may excuse a grand juror either temporarily or permanently and may swear another grand juror from a current jury panel in place of the one excused. The discharge of any such grand juror shall in no way or manner affect any indictment found by the grand jury as it was composed either before or after such discharge. If it is impossible to fill the vacancy on the grand jury from a current jury panel, the chief circuit judge may summon, using the procedure in subsection (9), Section 17 of this Act, such number of prospective jurors as deemed necessary for the purpose.

SECTION 38. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) Defendants shall have the right to a jury trial in all criminal prosecutions in the circuit and district courts in which there is a possible penalty of imprisonment or of a fine in excess of two hundred and fifty dollars ($250).

(2) There shall be no right to a jury trial in civil actions in which the amount in controversy does not exceed two hundred and fifty dollars ($250).

(3) Nothing in this section shall be construed to restrict the power of the judge to punish for contempt of court.

SECTION 39. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) Juries for all trials in circuit court shall be composed of twelve (12) persons. Juries for all trials in district court shall be composed of six (6) persons.

(2) In circuit court, at any time before the jury is sworn, the parties with the approval of the court may stipulate that the jury shall consist of any number less than twelve (12), except that no jury shall consist of less than six (6) persons.

(3) A unanimous verdict is required in all criminal trials by jury. The agreement of at least three-fourths ($3/4$) of the jurors is required for a verdict in all civil trials by jury in circuit court. The agreement of at least five-sixths ($5/6$) of the jurors is required for a verdict in all civil trials by jury in district court.

SECTION 40. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The voir dire examination of petit jurors shall be conducted in the manner prescribed by the Supreme Court.

(2) The parties shall have the right to challenge jurors as follows:

(a) There shall be an unlimited right to challenge jurors for cause; and

(b) The number of peremptory challenges shall be prescribed by the Supreme Court.

(3) The judge may select alternate jurors. The procedures for the use of alternate jurors shall be prescribed by the Supreme Court.

SECTION 41. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

The court shall swear the petit jurors using an oath prescribed by the Supreme Court.

SECTION 42. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) If the jury is permitted to separate, either during the trial or after the case is submitted to them, they shall be admonished by the court that it is their duty not to converse with, nor allow themselves to be addressed by, any other person on any subject of the trial; and that, during the trial, it is their duty not to form or express an opinion thereon, until the case is finally submitted to them.

(2) No officer, party, or witness to an action pending, or his attorney or attorneys shall, without leave of the court, converse with the jury or any member thereof upon any subject after they have been sworn.

(3) When necessary the judge may authorize the jury to view the real property which is the subject of the litigation, or the place in which any material fact occurred, or the place in which the offense is charged to have been committed.

SECTION 43. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) When the case is finally submitted to the jury, they shall retire for deliberation. When they retire, they shall be kept together in some convenient place, under the charge of an officer, until they agree upon a verdict or are discharged by the court, subject to the Supreme Court rules permitting them to separate temporarily at night and for their meals. The officer having them under his charge shall not allow any communications to be made to them, nor make any himself, except to ask them if they have agreed upon their verdict, unless by order of the court; and he shall not, before their verdict is rendered, communicate to any person the state of their deliberations, or the verdict agreed upon.

(2)(a) The jury may be discharged by the court on account of the sickness of a juror, or other accident, calamity or circumstance requiring their discharge; or, by consent of both parties; or, after they have been kept together until it satisfactorily appears that there is no probability of their agreeing.

(b) Cases in which the jury are discharged without making a verdict shall be tried again at such time as the court may direct.

(3) The procedure for rendering the verdict shall be:

(a) When the jury have agreed on their verdict, the verdict shall be written and signed by the foreman.

(b) When a verdict is rendered by less than the whole jury, it shall be signed by all the jurors who agree to it.

(c) The foreman shall hand the verdict to the judge who shall read the verdict and then make inquiry of the jury as to whether it is their verdict.

(d) When the verdict is announced either party may require that the jury be polled, which is done by the judge asking each juror if it is his verdict.

(e) If more than the number of jurors required by Section 39 of this Act, as appropriate to the type of case being tried, answers in the negative, the jury must be sent out for further deliberation.

(f) If no disagreement is expressed or, in an appropriate case, an insufficient number disagree, the verdict is complete and the jury shall be discharged from the case.

SECTION 44. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) The jury fee for a civil trial in circuit court shall be twenty-five dollars ($25). The jury fee for a civil trial in district court shall be twelve dollars and fifty cents ($12.50).

(2) The jury fee shall be assessed as costs against the unsuccessful party upon judgment or dismissal of the action.

(3) If two (2) or more cases are consolidated by order of the court and tried together, the clerk shall collect only one (1) jury fee.

(4) If a plaintiff sues in forma pauperis, he shall not be liable for a jury fee.

(5) If a request for a jury fee is withdrawn or the case is disposed of not less than two (2) court days prior to the date set for trial the clerk shall not assess the jury fee.

SECTION 45. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

Any willful violation of Sections 12 through 45 of this Act for which a penalty is not otherwise provided by statute shall be punishable as a Class A misdemeanor.

SECTION 46. KRS CHAPTER 30A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) Each circuit judge may appoint a secretary for his circuit.

(2) Each secretary shall serve at the pleasure of the judge.

(3) The secretary shall meet the qualifications for the position established by the judicial personnel system.

(4) The secretary shall be compensated according to the salary schedule established for such positions in the judicial personnel system.

(5) Where there is a documented and demonstrable need for secretarial services for a district court, the chief district judge may request the Chief Justice to authorize the employment of a secretary or secretaries by the chief district judge, either on a permanent or temporary basis.

(6) Where there is a documented and demonstrable need for secretarial services by a district court, the chief district judge may request the Chief Justice to authorize the employment of a secretary to be employed by the district judge, either on a permanent or temporary basis.

SECTION 47. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

The Chief Justice, through the administrative office of the courts, may authorize the appointment or employment by the Chief Judge such secretaries, court reporters, interpreters, court administrators, friends of the court, and other personnel demonstrated as being necessary to the proper and efficient operation of the Court of Justice or any court which is a component thereof. Persons so authorized to be employed or appointed shall be compensated and classified according to the judicial personnel system.

SECTION 48. KRS CHAPTER 31A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) A master commissioner may be appointed for each county within a judicial circuit.

(a) In single-judge circuits the appointment shall be made by the circuit judge.

(b) In judicial circuits with more than one judge the master commissioner shall be chosen by a majority of the judges and in the event of a tie the chief circuit judge shall choose from those receiving the tie vote.

(2) The master commissioner shall meet the following requirements:

(a) He shall not hold any other paid public office, elected or appointed; and

(b) He shall be governed by such rules not inconsistent with the statutes of the Commonwealth as may be set by the Supreme Court and by the court employing him.

(3) The master commissioner shall serve at the pleasure of the court as follows:

(a) In a single-judge circuit the master commissioner shall serve at the pleasure of the circuit judge, but in no case shall his term exceed four (4) years without reappointment. The term of the commissioner shall automatically terminate following the death, resignation, or permanent replacement of the circuit judge who appointed him.

(b) In a judicial circuit with more than one judge the master commissioner shall serve at the pleasure of the judges of the circuit, but in no case shall his term exceed four (4) years without reappointment. The master commissioner may be removed at any time by a majority vote of the judges of the circuit and in the event of a tie the decision shall be made by the chief circuit judge.

(4) The master commissioner shall be compensated by fees as provided by rule of the Supreme Court. In counties other than those containing cities of the 1st and 2nd class and urban-county governments his compensation shall not exceed the sum of $7,200 per year exclusive of actual expenses. The circuit court may, allow the commissioner a reasonable fee for performing judicial type functions in actions where the master commissioner does not execute a judicial sale, and such fee shall be allowed even if the allowance of such fee shall cause the annual salary of the master commissioner to exceed $7,200 per year.

(5) The master commissioner shall maintain his office at such locations and during such hours as the chief circuit judge shall direct.

(6) The master commissioner shall perform such functions, including those of a receiver, as may be directed by an appropriate order of court.

(7) The master commissioner may have such deputies and assistants, approved by order of the chief circuit judge, as are necessary to perform the function of his office.

(8) The Supreme Court may make such rules, regulations, and accounting procedures as it may deem necessary for the appointment, conduct, and other matters relating to the master commissioner or receiver.

SECTION 49. A NEW SECTION OF KRS CHAPTER 31A IS CREATED TO READ AS FOLLOWS:

The master commissioner shall execute a bond, with surety approved by the court. The bond shall be recorded in court. He shall execute a special bond when required by the court and no action shall be maintained on his general bond for matters covered by a special bond.

SECTION 50. A NEW SECTION OF KRS CHAPTER 31A IS CREATED TO READ AS FOLLOWS:

The master commissioner shall take an oath that he will faithfully and honestly discharge the duties of his office.

SECTION 51. A NEW SECTION OF KRS CHAPTER 31A IS CREATED TO READ AS FOLLOWS:

(1) When the master commissioner is interested as an attorney or party; or
(2) When there is other conflict of interest; or
(3) When he is otherwise unable to discharge the duties of his office for any reason;

the judge of the court before whom the action is pending shall appoint a special commissioner, who shall meet the same qualifications as a master commissioner, and require him to take an oath and execute a bond as the regular commissioner is required to do.

SECTION 52. A NEW SECTION OF KRS CHAPTER 31A IS CREATED TO READ AS FOLLOWS:

(1) Receivers, except as provided in subsection (2) of this section, may be appointed under the same terms and conditions as a master commissioner.

(2) Except for personal representatives, guardians, curators and committees of persons of unsound mind, neither a party to an action, nor his attorney, nor any person interested therein, shall be appointed as a receiver unless by agreement of the parties.

SECTION 53. A NEW SECTION OF KRS CHAPTER 31A IS CREATED TO READ AS FOLLOWS:

The master commissioner or receiver may use any proof reduced to writing and signed by his predecessor, and may execute any order or judgment which it was the duty of his predecessor to have executed, and which remains unexecuted.

SECTION 54. A NEW SECTION OF KRS CHAPTER 425 IS CREATED TO READ AS FOLLOWS:

(1) On the motion of any party to an action who shows that he has, or probably has, a right to, a lien upon, or an interest in, any property or fund, the right to which is involved in the action, and that the property or fund is in danger of being lost, removed or materially injured, the court may appoint a receiver, or order the master commissioner to take charge of the property or fund during the pendency of the action, and may order and coerce the delivery of it to him. The order of a court appointing or refusing to appoint a receiver, shall be deemed a final order for the purpose of an appeal; Provided, that such order shall not be superseded.

(2) The receiver or master commissioner has, under the control of the court, power to bring and defend actions, respecting the property, to take and keep possession of the property, to receive rents, collect debts and generally to do such acts respecting the property as the court may authorize.

(3) Any income accruing during the pendency of proceedings under this section shall follow the property upon final disposition of the case.

SECTION 55. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) If an accused is confined in a detention facility at the time of his trial, he shall be delivered to the courtroom and returned to the facility during any recess of the trial in accordance with the following provisions, unless otherwise ordered by the court:

(a) If he is lodged in a city jail in the county where the trial is to be held, the city police shall carry out this duty.

(b) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty.

(c) In all other cases the sheriff of the county where the trial is to be held shall carry out this duty.

(2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with these exceptions:

(a) If he is sentenced to a facility which is operated by a city within the county where the trial is held, the city police shall deliver him to the proper facility.

(b) In the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

SECTION 56. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70).
(2) Additional fees shall be charged in circuit court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.25
(d) Preparing an attestation	.50
(e) Issuing orders of attachment; garnishment; writ of possession after judgment	10.00
(f) For a jury of more than six (6) persons (to be assessed as cost)	25.00
(g) For a jury of six (6) persons (to be assessed as cost)	12.50
(h) Service of process (per process)	3.00
(i) Mileage for service of process (per mile)	.14

(3) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice.

(4) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(5) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

SECTION 57. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The fee for filing an appeal from a district court civil matter in the circuit court shall be forty-five dollars ($45). This fee shall be in lieu of the filing fee required by subsection (1) of Section 103 of this Act.

(2) In the case of a counter claim or cross claim that exceeds the jurisdiction amount of district court requiring transfer to circuit court, an additional fee of forty-five dollars ($45) shall be paid by the party filing the counter claims or cross claims. This fee shall be in lieu of the filing fee required by subsection (1) of Section 56 of this Act.

(3) In the case of a counter claim or cross claim that exceeds the jurisdictional amount for which the lessened fee provided for by subsection (2) of Section 59 of this Act but which is not greater than the jurisdiction of district court an additional fee of fifteen dollars ($15) shall be paid by the party filing such counter claims or cross claims.

SECTION 58. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) Court costs for a criminal case in the circuit court shall be fifty dollars ($50).

(2) Additional costs shall be assessed in circuit court criminal matters as follows:

(a) Preparing an attestation	$ .50
(b) Preparing a certification	1.00
(c) Preparing a copy of a document (per page)	.25

(3) Taxation of costs against a defendant, upon conviction, shall be mandatory and shall not be probated or suspended.

SECTION 59. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The filing fee for a civil case in district court shall be twenty-five dollars ($25), except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be ten dollars ($10).

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10).

(c) Where the case involves a matter relating to guardianship, the fee shall be ten dollars ($10).

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10).

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10).

(2) Additional costs shall be assessed in district court civil cases as follows:

(a) Filing a third-party complaint	$10.00

(b) Preparing an attestation	.50
(c) Preparing a certification	1.00
(d) Providing a copy of a document (per page)	.25
(e) Issuing orders of attachment; garnishment; writ or possession after judgment	10.00
(f) For a jury of six (6) persons (to be assessed as cost)	12.50
(g) Service of process (per process)	3.00
(h) Mileage for service of process (per mile)	.14

(3) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice.

(4) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

SECTION 60. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) Court costs for a criminal case in the district court shall be twenty dollars ($20).

(2) Additional costs shall be assessed in district court criminal matters as follows:

(a) Preparing an attestation	$ .50
(b) Preparing a certification	1.00
(c) Preparing a copy of a document (per page)	.25

(3) Taxation of costs against a defendant, upon conviction, shall be mandatory and shall not be probated or suspended.

SECTION 61. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The district court filing fee authorized by subsection (1) of Section 59 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(2) The diminished filing fee in certain district court matters as authorized by subsections (a), (b), (c), (d) and (e) of subsection (1) of Section 59 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(3) Additional costs in district court civil cases authorized by subsections (2)(a), (b), (c), (d), and (e), and (4) of Section 59 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(4) Additional costs in district court civil cases authorized by subsections (2)(g) and (h) of Section 59 of this Act shall be paid, to the sheriff or other officer serving the process.

(5) Costs authorized by subsection (3) of Section 58 of this Act shall be paid to the circuit clerk.

(6) Costs and additional costs authorized by Section 60 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(7) The legal process tax provided by this section shall be placed in the Kentucky State Treasury as provided by law.

SECTION 62. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court filing fee authorized by subsection (1) of Section 56 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(2) Additional costs in circuit court civil cases authorized by subsections (2)(a), (b), (c), (d), and (e) and (4) of Section 56 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(3) Additional costs in circuit court civil cases authorized by subsections (2)(h) and (i) of Section 56 of this Act shall be paid to the sheriff or other officer serving the process.

(4) Costs authorized by subsection (3) of Section 56 of this Act shall be paid to the circuit clerk.

(5) The appeal fee authorized by Section 57 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(6) Costs and additional costs authorized by Section 58 of this Act shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(7) The legal process tax provided by this section shall be placed in the Kentucky State Treasury as provided by law.

SECTION 63. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

Compensation of sheriffs and other law enforcement officers or agencies for attending court shall be as follows:

(1) Compensation shall be provided only for the actual time for which the sheriff or other officer is ordered to be physically present in the courtroom or is ordered to be physically present to discharge a duty ordered by the chief circuit judge, chief district judge, or judge of the court of appeals, as appropriate.

(2) Compensation shall not be provided for more than one sheriff or other officer per courtroom unless the need for additional personnel is certified in writing by the chief circuit judge, chief district judge, or judge of the court of appeals, as appropriate and the utilization of additional personnel is approved by the chief justice, or his designee. In the event of an emergency of such nature precluding contacting the chief justice or his designee, the chief circuit judge, chief district judge, or judge of the court of appeals may authorize such assignment of additional personnel for a period not to exceed twenty-four (24) hours.

(3) Where a single sheriff or other law enforcement officer serves more than one court or courtroom during a single day he shall be paid as if he had served only one courtroom during that day. Dual compensation for service during a single day shall not be permitted.

(4) Time, for compensation purposes, shall be computed as the actual time spent in the courtroom pursuant to court direction or order and the actual time spent in other service to the court as directed or ordered by the appropriate judge.

(5) Time spent in court service by a sheriff or other law enforcement officer shall be certified by the judge of the court which the officer attended and by the chief judge of the circuit court, if the service was to the circuit court, or by the chief judge of the district court, if the service was to the district court.

(6) Compensation shall be at the following rates:

(a) For the first three (3) hours of service in a single day; ten dollars ($10).

(b) For service beyond three (3) hours, such additional service shall be compensated at the current federal minimum wage. Compensation for such service shall be pro-rated for the actual number of minutes service within a given hour.

SECTION 64. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Any judge of any court may appoint an interpreter for any party, witness, or for any other appropriate individual in any matter properly before the court which he presides and may authorize payment for such an interpreter out of the state treasury.

(2) In the event that a person has been detained in police custody or has been arrested an interpreter shall be provided prior to any interrogation or taking of a statement from the person provided the court determines he meets the criteria set forth in Section 66 of this Act.

(3) Any statement made by a person who is entitled to the services of an interpreter under subsection (2) of this section to a law enforcement officer may be used as evidence against that person only if the statement was made, offered or elicited in the presence of a qualified interpreter. This subsection shall in no way deny a person the right to make a voluntary confession.

(4) If the judge, or any other person, believes that a person claiming to be entitled to an interpreter may not actually be deaf or hearing impaired, unable to communicate in English, or otherwise not entitled to such services the judge may, on good cause shown, hold a hearing to determine the extent of the person's handicap or disability and the bona fide need for interpreting services.

(5) If it is determined that the person is not entitled to such services no portion of Sections 69 to 124 of this Act shall apply to him.

SECTION 65. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Any person appointed as interpreter for any matter before the Court of Justice shall be qualified by training or experience for the interpreting function which he is to discharge and shall meet, where applicable, all requirements established for such position.

(2) The Supreme Court may prescribe standards for appointment, qualifications, duties, and other matters relating to interpreters. In the area of providing interpreters for persons with hearing impairments as described under Section 66(1)(a) such standards may be promulgated after consulting with the Kentucky Registry of Interpreters of the Deaf and the Kentucky School for the Deaf.

(3) Such rules, regulations, and standards shall be administered by the administrative office of the courts.

SECTION 66. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) At any stage of any criminal, juvenile, or mental inquest case, or any grand jury proceeding, including probation and parole proceedings, a qualified interpreter or interpreters, to be paid out of the state treasury, shall be provided for the following categories of persons whether they are parties or witnesses:

(a) Persons who because of deafness or a hearing impairment have difficulty in readily understanding or communicating in the written or spoken English language;

(b) Persons who cannot communicate in English; and

(c) Any other person who has, in the opinion of the court, another type of disability which will prevent him from properly understanding the nature of the proceedings or substantially prejudice his rights.

(2) Upon request of the person for whom the interpreter is appointed, or on the court's own motion, an interpreter may be removed for inability to communicate with the person, or if for reasonable cause another interpreter is so desired by the person for whom the interpreter is appointed, or because the services of an interpreter are not desired by the person. If no qualified interpreter can be found who can successfully communicate with this person, he may select his own interpreter without regard to whether such interpreter is "qualified" within the meaning set forth under this statute.

(3) For the purposes of Sections 64 through 71 of this Act, the following terms shall mean:

(a) "Mental inquest" means any hearing or proceeding in which a person included in subsection (1) of this section, is involved which is held to determine that person's sanity, mental capacity, or developmental level, for legal purposes whether held to commit, change the circumstances of commitment, or to release that person.

(b) An "interpreter" in case of an individual coming within the protection of Section 66, means a person or persons who translate written and oral communications or interpret communication in such a manner as to effectively transmit information to the individual.

SECTION 67. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) In any civil case, upon approval by the court, an interpreter may be appointed. The cost for the interpreter's services shall be taxed as costs against the losing party at the conclusion of the suit, provided, however, that the judge may compensate the interpreter out of the state treasury if such is suggested by considerations of fairness and justice.

(2) The Supreme Court shall issue a schedule of fees and charges for interpreters in civil cases.

SECTION 68. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

In cases where compensation by the state is required or permitted interpreters' fees and ordinary and reasonable expenses shall be paid out of the state treasury according to the pay schedule of the judicial personnel system.

SECTION 69. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

The duties of the interpreter may include:

(1) Interpreting during court and court-related proceedings, including any and all meetings and conferences between client and his attorney;

(2) Translating or interpreting documents;

(3) Assisting in taking depositions;

(4) Assisting in administering oaths;

(5) Such other duties as may be required by the judge of the court making the appointment.

SECTION 70. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Every person who acts as an interpreter in circumstances involving the arrest, police custody or other stage in a criminal, civil, or other matter of a person coming under Section 66 of this Act shall not be examined as a witness regarding conversations between that person and his attorney, when such conversations would otherwise be subject to the attorney-client privilege, without the consent of that person.

SECTION 71. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) In the performance of his duties the interpreter may utilize electronic recording, foreign language translation, and other equipment.

(2) If the equipment sought to be used is of the type approved by the administrative office of the courts no further approval is required before the equipment may be used in court or court related matters.

(3) If the equipment is of a type for which no approval has been issued by the administrative office of the courts the use of such equipment for court or court related matter shall be approved in writing and in advance by the director of the administrative office of the courts or his designee or by the judge making the appointment.

(4) If the equipment is of a type which has been disapproved by the administrative office of the courts, it shall not be used in any court or court related matter.

(5) All equipment utilized in court or court related matters shall be in proper mechanical and working order and shall be fit for the intended use.

SECTION 72. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) As of January 1, 1978, all new equipment purchases for the Court of Justice shall be made by the Court of Justice and paid from state or other available funds.

(2) The Court of Justice may contract with a local unit of government to furnish extraordinary specialized facilities or services.

Section 73. KRS 208.200 is amended to read as follows:

(1) If in its decree the juvenile court finds that the child comes within the purview of subsections (1) or (2) of KRS 208.020, the court may, by order:

(a) Place the child on probation or under supervision in his own home or in a suitable family home or boarding home, upon such conditions as the court shall determine. Probation or supervision shall not be ordered or administered as a punishment, but as a measure for the protection, guidance and well-being of the child and his family. A child so placed on probation or supervision shall be subject to the visitation and supervision of a probation officer or a child welfare worker. Probation and supervision methods shall be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community. A child so placed on probation or supervision shall remain subject to the jurisdiction of the juvenile court until he becomes *eighteen (18)* [twenty-one (21)] years of age, unless he is discharged prior thereto by the court.

(b) Commit the child to the custody or guardianship *of the department or* of a private *institution* or public [institution or] agency [other than the department] authorized to care for such children, or *place the child* under *the custody and* the *supervision* [guardianship] of a suitable person. *All orders of commitment may include such advisory recommendations as the court may deem proper in the best interests of the child and of the public.* Such commitment *or placement* shall be until the age of *eighteen (18)* [twenty-one (21)] subject to the power of the court to *terminate the order and* discharge the child prior thereto. [, or of the] *The* governing authorities of said *department,* agency or institution *may likewise discharge the child unless the court directs otherwise.* [to do so upon] *Prior to said discharge two weeks'* notice *must be given* to the *committing* court, *to the legal representative of the child and to the county attorney of the county in which committing court presides. During the period of commitment or placement, the court may review a dispositional order and may modify or terminate such order as the court deems essential to the best interests of the child.* In committing a child to a private institution or agency the court shall select one that is approved by the department for human resources and children committed to such an institution or agency shall be subject to the visitation and supervision of a probation officer or child welfare worker.

[(c) Commit the child to the department. Such commitment shall be for an indeterminate period not to exceed the age of twenty-one (21).]

[(2) If, in its decree, the juvenile court finds that the child comes within the purview of subsection (1) or (2) of KRS 208.020, the court may dispose of the child as provided in subsection (1) of this section, except that if a child comes within the purview of paragraph (d) of subsection (1) of KRS 208.020, the court may not commit the child to the department unless the department has indicated to the court that it has facilities and funds available to care for the child and is willing to accept the commitment.]

(2) [(3)] In the event a child who has not reached his eighteenth birthday commits a new offense while *under the jurisdiction of the court or during the period of commitment* [a ward of the department,] the court shall have exclusive, original jurisdiction of the new offense [, and may modify all previous orders, including that committing the child to the department. Nothing in this section shall limit the jurisdiction of any other court in assuming jurisdiction of wards of the department between the ages of eighteen (18) and twenty-one (21) years who have committed another public offense after attaining the age of eighteen (18)].

(3) [(4) If a child is disposed of as provided in paragraph (a) or (b) of subsection (1) of this section the court may modify or set aside its order at any time, and direct that the child be otherwise disposed of, in accordance with this chapter, except that after] *After* a child has been disposed of as provided in paragraph (a) or (b) of subsection (1) of this section he may not then be transferred to the circuit court as provided for in KRS 208.170.

(4) [(5)] If a child sixteen (16) years of age or older has been adjudicated delinquent in the commission of an offense classified as a misdemeanor or violation, the court in its discretion may order as follows:

(a) Participation in a community services work program. The work program shall be of a constructive nature designed to promote the rehabilitation of the child. The program shall be appropriate to the age level and physical ability of the child and shall be combined with counseling from a probation officer or other responsible person. The work program shall not be scheduled during such times that would interfere with educational, occupational, or religious obligations of the child. Assignment to a community services work program shall be made to a governmental or nonprofit community organization for a specified period of time, not to exceed one hundred and twenty (120) hours for a child adjudicated delinquent in the commission of a Class A misdemeanor, not to exceed eighty (80) hours for a child adjudicated delinquent in the commission of a Class B misdemeanor, and not to exceed forty (40) hours for a child adjudicated delinquent in the commission of an offense classified as a violation under the penal code. A child may be directed to participate in a community services work program as provided in this subsection for the purposes of restitution authorized by KRS 208.240.

(b) The court may impose a fine for a misdemeanor or violation offense. The imposition of a fine for a misdemeanor or violation offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay such fine.

(c) Fines shall be levied consistent with the schedule set forth below:

For a Class A misdemeanor, not to exceed $150;

For a Class B misdemeanor, not to exceed $75; and

For a violation, not to exceed $50.

When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately.

(5) [(6)] When a child has been ordered to comply with the provisions in subsection (5) above and fails to do so, the court upon motion of the prosecuting attorney or upon its own motion may require the child to show cause why he should not be held in detention for noncompliance with the court order. The court may issue an order of custody or a summons for his appearance.

(6) [(7)] Following issuance of a show cause order pursuant to subsection (6) above, unless the child can show that noncompliance was not the result of an intentional refusal to comply with the court order or not the result of a failure to make a good faith effort to comply with the court order, the court may order the child detained as follows:

(a) For a period not to exceed five (5) days if the order is imposed for the commission of a Class A misdemeanor;

(b) For a period not to exceed three (3) days if the order is imposed for the commission of a Class B misdemeanor;

(c) For a period not to exceed two (2) days if the order is imposed for the commission of a violation.

Any detention imposed for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational obligations of the child, and shall be in an approved detention facility as provided in KRS 208.130.

(7) [(8)] When in the judgment of the court a disposition stated above in subsection (5) is inadequate to aid in the rehabilitation of a misdemeanor offender, the court in its discretion may order a child sixteen (16) years of age or older who has been adjudicated delinquent in the commission of an offense classified as a misdemeanor to detention in an approved detention facility as provided in KRS 208.130 based upon the schedule set forth below:

Class A misdemeanor, 1 to 30 days;

Class B misdemeanor, 1 to 15 days;

provided, that, the court shall advise the child prior to entering its order under this subsection that the child upon demand may receive trial by jury in the *regular session of district* [quarterly] court, which trial and any appeal therefrom shall be conducted in accordance with the Rules of Criminal Procedure.

The detention of a juvenile misdemeanor offender shall not be scheduled to interfere with the educational obligations of the child. Detention may be scheduled during periods such as weekends, after school, or overnight. Any portion of a day spent in detention shall be deemed as one (1) day for the purposes of serving a detention term.

(8) [(9)] No adjudication by a juvenile court of the status of any child shall be deemed a conviction, nor shall such adjudication operate to impose any of the civil disabilities ordinarily resulting from a criminal conviction, nor shall any child be found guilty or be deemed a criminal by reason of such adjudication.

Section 74. KRS 208.540 is amended to read as follows:

Any peace officer who conveys a child from the committing court or from the detention facility of the committing court to an institution or facility operated by the department shall be allowed an amount prescribed by regulation adopted by the executive department for finance and administration calculated by the nearest traveled route, and shall be paid for all necessary expenses for feeding, lodging and transporting the child. The officer shall make out a full account of all expenses so incurred by him and give the distance traveled. The account shall be verified by the officer upon oath before the *district* [county] court and certified by the *circuit* [county] clerk to the department, for payment out of funds appropriated for the purpose. *The child's presence shall be necessary at a post-disposition proceeding only as required by court order. Expenses for transportation of a child to such a proceeding from an institution or facility operated by the department* *shall be paid out of the state treasury.*

SECTION 75. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided by KRS 208.194, an order of commitment or an order of protective supervision or probation made by the court in the case of a child may be modified or terminated at any time prior to expiration on the court's own initiative or on motion by:

(1) A child who is affected by an order of juvenile session of district court;
(2) The family, custodian, guardian, or legal representative of such a child;
(3) The county attorney of the county in which the committing court presides; or
(4) Any other person having an interest in the welfare of the child.

Grounds for such action may include but are not limited to allegations that there has been a substantial change of material circumstances, there exists new evidence affecting the disposition of the child, the child is no longer in need of commitment, probation, or placement, the child has not received adequate and proper treatment, the original proceedings were not conducted in the manner required by law or the public interest requires modification or termination of the order. Upon review of the child's case, the department, any agency, institution or individual responsible for the supervision, care or treatment of the child, shall divulge and communicate such information regarding the child as the court may require.

Section 76. KRS 62.170 is amended to read as follows:

(1) The commissioner for finance and administration shall secure, except for state officers required by KRS 62.160 to file bond, blanket bonds, with or without cosureties, written on a blanket position form, to cover all other officers, employes or deputies of the Commonwealth of Kentucky, *including all judges, clerks and employes of the Court of Justice,* including all other members of boards or commissions or employes of such boards or commissions, and including all superintendents, receivers or employes of penal or eleemosynary institutions managed or directed by the department of justice, department for human resources or any other department or agency of the Commonwealth of Kentucky, nothing in this paragraph shall be deemed to prohibit the securing of any such blanket position bond on a departmental, board, commission, agency or institutional basis.

(2) The commissioner for finance and administration may secure one or more excess blanket bonds, with or without cosureties, to cover selected groups of persons covered by the bond or bonds required in the preceding paragraph to provide additional coverage which he may deem necessary by the exposures indicated in accordance with the duties and responsibilities indicated by the personnel classification schedules of the department of personnel *and, for court of justice officers and personnel, by the administrative office of the courts* and in accordance with the amounts of money and property handled by the respective officers and employes.

(3) Such bond or bonds shall be written by and participated in only by insurance companies licensed by the department of insurance to do business in this state and shall be countersigned by a duly authorized licensed resident agent of the company. Such bonds may be written with or without cosureties. Further, such bonds are to be a percentage of the total risks, the department of insurance to approve the amount of the risk written by any one (1) company.

(4) The penal amount of the bond secured pursuant to this section shall be fixed by the commissioner for finance and administration in accordance with the duties and responsibilities indicated by the personnel classification schedules of the department of personnel *and, for court of justice officers and personnel, by the administrative office of the courts,* and in accordance with the amounts of money and property handled by the respective officers and employes.

Section 77. KRS 64.090 is amended to read as follows:

Sheriffs may charge and collect for the following services the following fees:

Executing and returning process	*$3.00* [$2.00]
Serving an order of court and return	*3.00* [2.00]
Summoning each witness	1.00
Summoning an appraiser or reviewer	1.00
[Each day's attendance in the county on a jury or] *A* [a]ttending a surveyor, when ordered by a court	2.00
Taking any bond that he is authorized or required to take in any action	2.00

Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six per cent (6%) on the first three hundred dollars ($300) and three per cent (3%) on the residue; when he levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case.

Taking a recognizance of a witness	$1.00

Levying an attachment	2.50

When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court.

Summoning a garnishee	*$3.00* [$2.00]
Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail, to be paid by the party convicted	7.00
Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff	7.00
Serving an order or process of revivor	2.00
Executing a writ of possession against each tenant or defendant	7.00

Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission.

Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses	6.00

Collecting militia fines and fee-bills, ten per cent (10%), to be deducted out of the fee-bill or fine.

Levying for a fee-bill	2.00
Serving a notice	2.00
Serving warrants or process of arrest in bastardy cases	6.00
Serving each order appointing surveyors of roads, to be paid out of the county levy	1.00
Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant	1.00
Like services in cases of private passways to be paid by the applicant	1.00
[Services rendered in cases in the quarterly courts, the same fees given to constables in all cases where the amount claimed is $50 or under.]	
Executing each writ of habeas corpus, to be paid by the petitioner	2.00
All services under a writ issued under KRS 381.460 to 381.570	5.00
[Attending by himself or deputy all terms of the county courts, and quarterly courts and the allowance per day, shall be allowed by the county judge and paid out of the county levy, not exceeding	5.00]
[Attending by himself or by deputy and keeping order in the circuit court, to be paid out of the state treasury, for each day	7.00]

Performing the duties of jailer, the same fees and allowances that are prescribed for jailers.

For services in summoning grand and petit jurors and performing his duties under *KRS Chapter 29A* [KRS 29.165, 29.175 and 29.280] the sheriff shall be allowed, for each person so summoned, and paid out of the state treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

Section 78. KRS 27A.015 is amended to read as follows:

The administrative office of the courts is created to serve as the staff for the Chief Justice in executing the policies and programs of the Court of Justice. The director of the administrative office of the courts, employes thereof, and administrative assistants of the Chief Justice shall serve at the pleasure of the Chief Justice. *Provided, however, the director shall be appointed or reappointed at least every four years with the advice and consent of the Senate; but if the Senate is not in session when a term expires or a vacancy occurs, the Chief Justice shall make the appointment to take effect at once, subject to the approval of the Senate when convened.* The salaries of the director, employes thereof, and administrative assistants of the Chief Justice shall be fixed by order of the Chief Justice and paid monthly out of the state treasury. While holding their positions the director, employes of the office and administrative assistants shall not practice law in any court of this Commonwealth.

The Committee on Appropriations and Revenue reported **HB 16,** with Second Committee Substitute and Title Amendment to the Second Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Second Committee Substitute for **HB 16** is as follows:

HB 16, AN ACT relating to collection and distribution of revenue from courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 24A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) "Local court" means any police, justices', or quarterly court or county court sitting as a judicial body.

(2) "Net court revenue" means the amount of money collected by a court from fees, fines, and forfeitures less the amount expended for court-related costs.

(3) "Court-related costs" means costs incurred in the operation and maintenance of a court for:

(a) Personnel,

(b) Equipment,

(c) Office supplies,

(d) Operating expenses, and

(e) Any other expense previously borne by a city or county or paid from fines, fees, and forfeitures of a local court, which is assumed by the state in connection with the operation of the courts.

(4) "Base court revenue" means the average net court revenue from any local court or any combination of local courts in a city or county as computed from the 1973-74, 1974-75, 1975-76 fiscal years as adjusted pursuant to Section 2.

SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The executive department for finance and administration shall determine from certified audits provided by the cities and counties, the reasonable cost of which shall be reimbursed by the executive department for finance and administration, the base court revenue for each city and county which had a local court as of June 30, 1976. In the event that any city or county believes that unusual circumstances have adversely affected the resulting computation of base court revenues, then the county or city may appeal to the executive department for finance and administration and the executive department for finance and administration may adjust such computation accordingly.

SECTION 3. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The net court revenue, as finally determined in Section 2, less the net amount received by the city or county from any new or existing source as a result of implementation of the district courts, shall be returned to cities and counties. New source may include court facilities fees or any other source from which the city or county was not receiving revenue before the implementation of the district courts. Existing source may include the sale of motor vehicle operators' licenses, boat registrations, or any other source from which the city or county may receive additional revenue as a result of implementation of the district courts. Such payments shall be made quarterly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The executive department for finance and administration shall promulgate rules and regulations to carry out the provisions of Sections 2 and 3 of this Act.

The Committee Title Amendment to the Second Committee Substitute for HB 16 is as follows:

Amend printed copy of Committee Substitute No. 2 for House Bill 16, page 1, by deleting the title and inserting in lieu thereof:

"AN ACT relating to the distribution of revenue from courts."

The Committee on Cities reported **HB 41,** with Committee Amendments attached thereto, and **HB 42** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 41, AN ACT relating to mass transit authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 96A IS CREATED TO READ AS FOLLOWS:

(1) The department of transportation shall create a mass transit loan assistance fund the sole purpose of which shall be to provide financial aid to public bodies which have established transit authorities under the terms of KRS Chapter 96A.

(2) The secretary of the department of transportation and the secretary of the executive department for finance and administration shall have the authority in their sole discretion to grant financial aid to which have

established transit authorities which have demonstrated an immediate and urgent need for financial assistance.

(3) Financial assistance granted under the terms of this Act shall be in the form of a loan for a period not to exceed one year and under terms and conditions to be specified by the secretary of the department of transportation and the secretary of the executive department for finance and administration, except that the total amount of financial assistance granted to any one applicant shall not exceed one million dollars ($1,000,000) in any one year.

(4) The secretary of the department of transportation shall provide the legislative research commission with copies of all loan agreements granted under this Act.

Section 2. Part 1, Section 72, subsection (d) of Chapter 55 of the 1976 Acts is hereby amended to read as follows:

d.

Mass Transportation

1976-77	$ 2,103,400
1977-78	$ 2,103,400

The appropriation in fiscal years 1976-77 and 1977-78 includes $1,700,000 each year for the purchase of general municipal transportation vehicles, [and] the construction of municipal vehicle garages *and the provision of a mass transit loan assistance fund.* $200,000 of the above appropriations each year shall be used for the transportation of the elderly and handicapped. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

Section 3. Monies to support this program shall come from funds previously appropriated to the department of transportation in 1976 under Chapter 55, Part 1, Section 72, subsection (d). The amount shall not exceed five hundred thousand dollars ($500,000) in fiscal year 1976-77, and five hundred thousand dollars ($500,000) in fiscal year 1977-78.

Section 4. Whereas it has been determined that at least one transit authority in the Commonwealth requires immediate assistance, an emergency is declared to exist and this Act shall become effective on passage and approval by the governor.

The Committee Amendment No. 1 to **HB 41** is as follows:

Amend printed copy of House Bill 41, page 1, line 11, after the phrase "financial aid to" by inserting the words "public bodies".

The Committee Amendment No. 2 to **HB 41** is as follows:

Amend printed copy of House Bill 41, page 3, lines 4 and 5, by deleting the phrase "at least one" appearing on said lines;

and on page 3, line 5, by deleting the word "authority" and inserting in lieu thereof the word "authorities";

and on page 3, line 5, by deleting the word "requires" and inserting in lieu thereof the word "require".

HB 42, AN ACT relating to mass transit authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96A.340 is amended to read as follows:

(1) The resolution or ordinance of each public body determining that a proposition for the establishment of a mass transportation program be submitted to the electorate of such public body or to the electorate of the transit area of such transit authority, as the case may be, shall in each case be published in *the newspaper having the largest bona fide circulation in the area affected and KRS 424.120 notwithstanding, in the following manner* [all newspapers that meet the requirements set forth in KRS 424.120 in the following manner]:

(a) The advertisement shall contain a notification that there is to be a referendum, the subject of which is to be the proposed sales tax.

(b) The advertisement shall contain the amount of the proposed sales tax and the subject(s) thereof.

(c) The advertisement shall include the manner in which the tax shall be levied.

(d) The advertisement shall include the manner in which and purposes for which revenues resulting from the tax levy shall be spent.

(e) The advertisement shall be no less than one quarter page in size, and

(f) Shall be published at least once weekly for the nine weeks immediately prior to the date of the referendum,

(g) And daily for the week immediately prior to the date of the publication in those papers with daily publication.

(h) The advertisement shall begin with the word "Tax".

Thereafter such public body or public bodies shall cause the proposition to be prepared for submission to the electorate of either such public bodies or such transit area of the transit authority, as the case may be, at an election to be called and held for such purpose. Such election may be held upon any date stipulated by the public body or public bodies and shall be held pursuant to notice as prescribed in KRS 424.130. Said election may, but need not, be held in conjunction with a regularly scheduled November election or a primary election as otherwise provided by law. The proposal to be submitted to the electorate of such public body or public bodies, or transit area of such transit authority, as the case may be, shall be so framed that any voter who wishes to vote in favor of the mass transportation program and the financing source therefor may signify his approval by voting "yes", and any voter who wishes to vote against the mass transportation program and the funding therefor may do so by voting "No".

(2) In the event any such mass transportation program proposal is submitted to the electorate of any individual public body, such proposition and the source of funding therefor shall be approved if a majority of those voting on the proposal within the public body shall vote "yes".

(3) In the event any such mass transportation program proposal is submitted to the electorate of any transit area of any such transit authority by simultaneous submission by all public bodies who are at the time of such submission members of such transit authority, such proposition and the source of funding therefor shall be approved if a majority of those voting on the proposal within the transit area of such transit authority shall vote "yes".

(4) Any additional voted levies of ad valorem taxes approved by electorates pursuant to KRS 96A.310 to 96A.370, shall in the case of individual public bodies, be added to and constitute legal tax levies of such individual public bodies within the meaning of the constitution of Kentucky, and shall, in the case of votes taken in transit areas of transit authorities, constitute legal tax levies of each and every individual public body which is a member of any such transit authority within the meaning of the constitution of Kentucky. K

The Committee on Counties and Special Districts reported **SR 5,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SJR 5, A JOINT RESOLUTION directing the establishment of a county statute revision commission to study the present laws on county government and make recommendations for enactment of necessary changes by the 1978 General Assembly and making an appropriation therefor.

WHEREAS, the judicial article requires a restructuring of the Commonwealth's court system at every level; and

WHEREAS, the restructured lower court system will cause a significant change in the functions, duties, and responsibilities of certain county officials; and

WHEREAS, it is necessary to develop comprehensive recommendations for proposed legislation to deal with the organization and administration of county government, including the functions, duties, and responsibilities of county officials;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section. 1. That there be established a county statute revision commission to study and review the laws pertaining to counties with the goal toward making them uniform; to establish a continuing survey of the needs of the counties in county statute revision; and to publish and make available to public officials compilations of these laws to assist them in the better understanding and effective discharge of their duties to the citizens of the Commonwealth.

Section 2. The Governor shall on or before March 1, 1977, appoint a county statute revision commission composed of a chairman and nineteen (19) members. One member shall be chosen from the following elected officials' associations: (a) county judges; (b) county court clerks; (c) county attorneys; (d) county sheriffs; (e) county jailers; (f) circuit court clerks; (g) commonwealth attorneys; (h) property valuation administrators; (i) coroners; and (j) magistrates and commissioners. The chairman of the house committee and the chairman of the senate committee of the General Assembly, having jurisdiction over counties, in the year in which the appointment is to be made, shall also serve as members of the county statute revision commission. In the event that either or both of these persons are unable to serve, or a vacancy occurs, the Governor shall appoint a legislator who was a member of the committee having jurisdiction over counties in the General Assembly session preceding the appointment and who was a member of the same chamber as the person who is unable to serve. One member shall be a representative of the Kentucky Association of Counties. One (1) member shall be selected from the faculty of each of the following: the University of Kentucky College of Law, the University of Louisville Law School and the Chase Law School of Northern Kentucky State College; one (1) member from a list submitted by the Board of Governors of the Kentucky Bar Association. Two (2) members shall be citizens who are not elected county officials.

Section 3. The members of the commission shall serve for a period of two (2) years. Vacancies in the commission shall be filled by appointment in the same manner as the original appointment, except as provided in Section 2 of this Act.

Section 4. The members of the commission shall serve without pay, but shall receive their reasonable and necessary expenses in connection with the performance of their duties to be paid out of the sum appropriated to the commission.

Section 5. The commission shall report periodically to the joint interim committee of the General Assembly having jurisdiction over counties and special districts and to the Governor during the 1976-78 interim. A comprehensive report with recommendations for statute revision shall be completed on or before November 1, 1977, and submitted to the 1978 General Assembly.

Section 6. The commission shall appoint a director of county statute revision. The director may employ such persons as may be necessary for the effective operation of the commission. The director may accept the voluntary services of interested citizens who shall serve without pay, but who shall receive their reasonable and necessary expenses to be paid out of the sum appropriated to the commission.

Section 7. To carry out the purpose of this Act, there is appropriated to the county statute revision commission out of the general fund in the state treasury the sum of seventy-five thousand dollars ($75,000) for the fiscal year of 1976-77 and the sum of seventy-five thousand dollars ($75,000) for the fiscal year of 1977-78.

The Committee Amendment No. 1 to **SR 5** is as follows:

Amend printed copy of Senate Resolution 5, page 2, line 21, after the word "the" by deleting the words "Governor shall appoint" and inserting in lieu thereof the words "Chairman or Vice Chairman in the absence of the Chairman may designate";

and on page 3, line 1, after the word "One" by deleting the remainder of that line in its entirety;

and on page 3, by deleting lines 2 through 4 in their entirety;

and on page 3, line 5, by deleting everything on that line before the "(1)";

and on page 3, line 24, by deleting the word "November" and inserting in lieu thereof the word "October".

The Committee Amendment No. 2 to **SR 5** is as follows:

Amend printed copy of Senate Resolution 5, page 2, line 8, by deleting the words "nineteen (19)" and substituting in lieu thereof the words "seventeen (17)";

and on page 3, line 1, by deleting the period "." after the word "ties" and inserting after the word "ties" the following: "and one member shall be a representative of governing bodies of urban county governments."

The Committee on Judiciary-Courts reported **SB 10** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 10, AN ACT relating to district courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
This Act shall be known and may be cited as the Small Claims Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
The purpose of this Act is to improve the administration of justice in small non-criminal cases, and make the judicial system more available and comprehensible to the public; to simplify practice and procedure in the commencement, handling, and trial of such cases in order that plaintiffs may bring actions in their own behalf, and defendants may participate actively in the proceedings rather than default; to provide an efficient and inexpensive forum with the objective of dispensing justice in a speedy manner; and generally to promote the confidence of the public in the overall judicial system by providing a forum for small claims.

SECTION 3. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
As used in this Act, unless the context otherwise requires:
(1) "Division" means the Small Claims Division of District Court;
(2) "Party" means any person, natural or otherwise, who has been a party to the transaction in dispute;
(3) "Clerk" means the clerk of the circuit court;
(4) "Judge" means the judge or trial commissioner of district court;
(5) "Where the defendant resides" means the county wherein the defendant has his principal place of residence or, in the case of a corporate defendant, the county of the corporation headquarters;
(6) "Where the defendant is doing business" includes counties where the defendant operates a place of business or dispatches sales representatives for the purpose of selling a product or service.

SECTION 4. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
A Small Claims Division of each district court shall be established by the first Monday of January, 1978.

SECTION 5. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
(1) The Small Claims Division shall have jurisdiction, concurrent with that of the district court, in all civil actions, other than libel, slander, alienation of affections, malicious prosecution and abuse of process actions, when the amount of money or damages or the value of the personal property claimed does not exceed five hundred dollars ($500) exclusive of interest and costs.
(2) The Division may also be used in civil matters when the plaintiff seeks to disaffirm, avoid, or rescind a contract or agreement for the purchase of goods or services not in excess of five hundred dollars ($500) exclusive of interest and costs.
(3) The Division shall have authority to grant appropriate relief, except no prejudgment actions for attachment, garnishment, replevin or other provisional remedy may be filed in the Division.

SECTION 6. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
(1) The appearance of an attorney at law on behalf of any party is permitted but not required.
(2) No party may file an assigned claim or a class action in the Division.
(3) No person, firm, partnership, association, or corporation engaged, either primarily or secondarily, in the business of lending money at interest, nor any collection agency or collection agent, may bring an action in the Division in furtherance of their business.
(4) Notwithstanding any other provision of this section, an executor or administrator of a decedent's estate, a guardian, a trustee or a conservator may be a party in the Division.

SECTION 7. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
(1) No party shall file more than twenty-five (25) claims in any one calendar year in the Small Claims Division of any district court in the Commonwealth. Any business engaged in trade or commerce shall be entitled to the maximum number of claims allowed under this section of this Act for each established location in the district that has been engaged in trade or commerce for at least six (6) months.
(2) Any party who files a claim in the Division shall sign an affidavit with the clerk at the time of filing the claim stating that he has not brought more than the maximum number of claims allowed under Section 7(1) of this Act.
(3) If any party files a claim in excess of the maximum number of claims allowed, that claim shall be dismissed without prejudice at the cost of the plaintiff.

SECTION 8. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) The plaintiff shall commence an action in the Small Claims Division by filing a claim on a form provided by the clerk.

(2) The plaintiff may bring an action in the Small Claims Division in the judicial district where the party defendant or his agent resides or is doing business.

SECTION 9. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The filing fee in the Small Claims Division of the District Court shall be the same as the filing fee for claims of $500 or less filed in the District Court, except where personal service is not required pursuant to Section 10(2) of this Act, the sheriff's fee and mileage cost shall not be charged.

SECTION 10. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) The court shall set a time for hearing. The hearing time set shall be not less than twenty (20) days nor more than forty (40) days after service of process.

(2) The clerk shall notify the defendant of the claim and his right to appear by sending the defendant a copy of the claim and a summons directing the defendant to appear at the time set for hearing and informing the defendant that if he fails to appear, judgment may be entered against him. The mode of service shall be by registered or certified mail with return receipt requested. The receipt signed by the defendant shall be prima facie evidence that the defendant was served with notice of any action instituted pursuant to this Act. Should the receipt not be returned signed by the defendant, the defendant shall be personally served with process.

(3) To promote quick settlement of small claims, the Division shall grant continuances only where reasons of fairness and justice so require.

SECTION 11. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) The defendant may file with the clerk a counterclaim against the plaintiff in an amount not in excess of five hundred dollars ($500) exclusive of interest and costs, if the counterclaim arose out of the same transaction or occurrence that is the subject matter of the plaintiff's claim, and if the counterclaim does not require for its adjudication the presence of third parties over whom the Division cannot acquire jurisdiction. Any counterclaim shall be filed with the clerk, and a copy delivered to the plaintiff at least two (2) days prior to the time of the hearing. If the defendant's counterclaim is in excess of the jurisdictional limits of the Division, then the provisions of Section 13(1) shall apply.

SECTION 12. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) No formal pleadings other than the claim and notice, and the counterclaim and notice, if appropriate, shall be required in the Division.

(2) All forms provided in this Act shall be of a simplified, non-technical form.

(3) There shall be no pretrial discovery in the Small Claims Division of the district court.

SECTION 13. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) An action shall be removed from the Small Claims Division to the regular docket of district or circuit court as appropriate whenever the defendant's counterclaim exceeds the jurisdictional limit of the Division or the district court.

(2) An action shall be removed from the Division to the district court if a party defendant would otherwise have a right to a jury trial and gives notice to the Division requesting a jury trial as provided in Section 14(2) of this Act.

(3) An action may be removed from the Division to the district court if the judge, in his discretion, deems the action too complex for the simplified procedure of the Division.

(4) An action originally filed in the district or circuit courts may be transferred to the Small Claims Division on motion of the defendant if the claim is within the jurisdictional limit of, and otherwise could have been brought originally in, the Division, unless the plaintiff demands a jury trial. No action transferred to the Division shall be counted in the maximum number of claims that the plaintiff may bring under Section 7(1) of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) All claims in the Small Claims Division shall be tried without a jury. Upon filing a claim, the plaintiff shall be deemed to have waived his right to a jury trial in the Division. This waiver shall be explained on the claim form provided by the clerk.

(2) If the defendant in any action desires a jury trial, he shall give notice to the Division at least seven (7) days prior to the time set for the hearing, and the case shall be removed to the regular docket of the district court, and shall thereafter be subject to all the provisions of law and rules of court applicable to

proceedings in the district court.

SECTION 15. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
(1) The hearing and disposition of all matters in the Small Claims Division shall be informal.

SECTION 16. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
(1) Any party aggrieved by the judgment of the Small Claims Division may appeal within ten (10) days of the judgment to the circuit court in the judicial circuit where such Division is located.

SECTION 17. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:
(1) The Attorney General shall prepare an informational pamphlet or suitable material in layman's language explaining the jurisdiction of the Small Claims Division, procedures followed by the Division, rights and responsibilities of parties to proceedings in the Division, and other similar matters of importance.
(2) The informational pamphlet shall be made available to all clerks. A copy of the pamphlet shall be given to the plaintiff upon filing the claim and mailed or delivered to the defendant along with service of process.

The Committee on Counties and Special Districts reported **HB 10,** with Committee Substitute and Committee Amendments to the Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 2 to the Committee Substitute for **HB 10** is as follows:

Amend printed copy of Committee Substitute for House Bill 10, page 1, line 21, by deleting word "*judge*" and inserting in lieu thereof the words "*governing body*";

And on page 4, line 26, by deleting the word "*judge*" and inserting in lieu thereof the words "*governing body*";

And on page 5, line 6, by deleting the word "*judge*" and inserting in lieu thereof the words "*governing body*";

And on page 5, line 8, by deleting the word "*judge*" and inserting in lieu thereof the words "*governing body*";

And on page 6, line 16, by deleting the word "*fiscal*"; by deleting the brackets "[]" around the word "[county]"; by inserting brackets "[]" around the word "court"; and by inserting the words "*governing body*" after the word "[county]";

And on page 6, line 21, by deleting the word "*judge*" and inserting in lieu thereof the words "*governing body*";

And on page 13, line 7, by inserting after "Law." the following:

"Section 15. KRS 441.070 is amended to read as follows:

Any fiscal court, *or in urban counties, any urban county council,* may establish a workhouse, and for that purpose may rent an appropriate house and grounds, or purchase and receive conveyance of land. It may contract for erecting a workhouse and improvements in connection therewith, and purchase furniture, implements and other personal property necessary for the workhouse.

Section 16. KRS 441.080 is amended to read as follows:

The *governing bodies* [fiscal courts] of any two (2) or more counties may contract for the joint construction, management and use of a workhouse for the counties. A *county governing body* [fiscal court] and the legislative body of a city in the county may contract for the joint use of a workhouse, whether owned by the county or by the city or by both.

Section 17. KRS 441.110 is amended to read as follows:

The *governing body of the county* [fiscal court] shall employ a physician to attend sick prisoners in the workhouse, and the manager or lessee of the workhouse shall promptly inform the physician of any case of sickness.

Section 18. KRS 441.160 is amended to read as follows:

The jailer shall, upon the order of the county judge, *or the mayor in urban counties,* release from jail and turn over to the manager of a workhouse or work crew any prisoner sentenced to serve a fine and costs or imprisonment, or both, at hard labor. The order shall release the jailer from any further authority or liability as to such prisoner, and from any and all responsibility regardless of the court that committed the prisoner. The workhouse manager or crew manager shall assume responsibility and shall receipt to the jailer for all prisoners turned over to them. Prisoners may be transferred in the same manner, on order of the county judge *or mayor in urban counties,* from the custody of a workhouse manager or crew manager to the custody of the jailer."

And on page 13, line 8, delete "15." and substitute therefor the following: "19.";

And on page 13, line 9, delete "16." and substitute therefor the following: "20.".

The Committee on Rules reported **HB 27, HCR 10, HB 14, HB 32, HB 35,** SB 5, have been posted for passage in Orders of the Day, December 15, 1976.

The Committee on Rules reported **HB 1** has been recommitted to the Committee on Appropriations and Revenue.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Highways and Traffic Safety: **HR 27.**

Judiciary-Statutes: **HB 47.**

Calendar

SB 15 and **HB 4** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

The following members requested that their names be added as co-sponsors to Bills and Resolutions: Representative Dawahare, **HB 1;** Representatives Doss and Gray, **HB 4.**

The following members filed Floor Amendments to Bills and Resolutions: Representative Lindsay, No. 1 to Committee Substitute for **HB 10;** Representative Muncy, No. 5 to **HB 28;** Representative Givhan, No. 8 to Committee Substitute for **HB 32;** Representative Dawahare, Nos. 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32 to Committee Substitute for **HB 32;** Representatives Gray and Imes, No. 33 to Committee Substitute to **HB 32;** Representative B. Adams, No. 34 to Committee Substitute for **HB 32;** Representative DeFalaise, No. 35 to Committee Substitute for **HB 32;** Representative Kleier, No. 36 to Committee Substitute for **HB 32;** Representative Romines, No. 1 to **SJR 5.**

Representative Bevins moved the adoption of the following Legislative Citation No. 6:

The House of Representatives of the Commonwealth of Kentucky hereby commends the Lafayette High School Band, its Director and members, for completing an undefeated marching season by winning five major competitions. The Band brought special recognition to Kentucky by winning the "Contest of Champions", the most prestigious band contest in the South, for the second straight year. This body extends best wishes as the Band prepares to enter contests in Knoxville, Tennessee and Atlanta, Georgia. (Sponsored by Representative Bevins)

Agreed.

Representative Givhan filed the following Discharge Petition for **HB 1:**

Pursuant to House Rule 47 of the 1976 Extraordinary Session of the Kentucky General Assembly, the following regularly elected and qualified members of the House hereby request that **HB 1** be discharged from the Committee on Appropriations and Revenue, to which it was referred by the Committee on Committees on December 14, 1976, for consideration by the House as provided in the said rule. Signed by the following: Thomas B. Givhan, A. L. Robinson, Glenn Freeman, Ray O. Brown,, John Carpenter, Joe Head, Jackie "Ray" Cooper, Ronald R. Cyrus, Jon Ackerson, Jerry Kleier, Clay Gay, Herman Rattliff, Charles P. Muncy, Charles "Chuck" Hardwick, Lavey Floyd, Paul W. Richardson, M. B. Denham, Woody Allen, John Hurst, B. Blythe, Hoover Dawahare, Sid Adams, Eugene Doss, Michael W. Wooden, W. D. "Doc" Blair, Raymond Overstreet, W. H. DeMarcus, Robert Hughes.

Representative Muncy moved the adoption of the following Legislative Citation No. 8:

The House of Representatives of the Commonwealth of Kentucky hereby honors Joe Ohr for his outstanding career, dedication and community service, having served the teaching profession for forty-three years, including twenty-nine years as a high school principal and five years as a secondary supervisor; served as a varsity basketball coach for thirty-four years, as Secretary-Treasurer of the Kentucky High School Coaches Association since 1957, and held offices in the Central Kentucky Conference. This body commends Joe Ohr for his past twenty-eight years of service and his continuing service in the Irvine-Ravenna Kiwanis Club and in many other church and community affairs. (Sponsored by Representative Muncy)

Agreed.

Representative Little moved the adoption of the following Legislative Citation No. 2:

The House of Representatives of the Commonwealth of Kentucky hereby honors the members of the mine rescue team from Beth-Elkhorn Mine No. 29 in Pike County which, at great peril to their own safety, participated in the Scotia Mine rescue efforts on March 9, 1976, remaining underground for six and one-half hours in the rescue efforts. This body commends the bravery and dedication of the rescue team members: Team Captain Burley Wright, Jack Quillen, Paul Little, Leonard Fleming, Johnny Green, Bill Cantrell, Jimmy Conley, and Sherman Bentley. (Sponsored by Representative Little)

Agreed.

Recess

Representative Kleier moved that the House recess for fifteen minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 2 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blume moved the adoption of the following Floor Amendment No. 1 to **HB 2:**

Amend printed copy of House Bill 2, page 9, after line 14 by adding the following:

"Section 7. WHEREAS a crisis has developed at the University of Louisville with respect to the obtaining of medical malpractice coverage for the University and its employees, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor."

Agreed.

Representative Blume moved that **HB 2,** as amended, be passed.

On the roll call the vote was yeas 91-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, J. R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 2, as amended, was passed and the title agreed to.

Representative Blume moved that the vote by which **HB 2,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 15, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kleier moved the adoption of the Committee Amendment to **HB 15.** Agreed.

Representative Kleier moved the adoption of the following Floor Amendment No. 1 to **HB 15:**

Amend printed copy of House Bill 15, page 5, line 12, by inserting after the word "*Welfare*" the following words:

"*except as provided in subsection (3) of this section*"

and on page 6, line 17, by inserting after the word "*reside*" the following words:

"; *except that if any urban-county government or agencies of any urban-county government which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside, the urban-county government or agencies of the urban-county government may annually give its employes an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside*".

Agreed.

Representative Kleier moved that **HB 15,** as amended, be passed.

On the roll call the vote was yeas 93-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Thomas, J. R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 2-Denham, Tobin.

HB 15, as amended, was passed and the title agreed to.

Representative Kleier moved that the vote by which **HB 15,** as amended, was passed be reconsidered and said motionbe postponed indefinitely. Agreed.

HB 21, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Tobin moved the adoption of the following Floor Amendment No. 3 to **HB 21:**

Amend printed copy of House Bill 21, page 10, by inserting the following after line 22:

"Section 5. KRS 186.480 is amended to read as follows:

(1) The state police may examine every *unlicensed* applicant for an operator's license [or renewal of an operator's license] except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless the applicant is granted written permission by the circuit clerk of the county in which he resides, to take the examination in another county, and the state police agrees to arrange for the examination in the other county. The examination may include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning and directing traffic, his knowledge of traffic laws and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section.

(2) Any person whose operator's license is denied, suspended or revoked for cause, shall apply for reinstatement at the termination of the period for which the license was denied, suspended or revoked by submitting to the examination."

Agreed.

Representative Deskins moved the adoption of the following Floor Amendment No. 2 to **HB 21:**

Amend printed copy of House Bill 21, page 10, by inserting after line 22 the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

Conviction for any one of the following moving hazardous violations on a limited access highway or a limited access highway of four (4) or more lanes in Kentucky on which the speed limit is 50 mph or higher shall be cause for assessment of the penalty points indicated:

Speeding 15 MPH or less over the limit .... 0 points

Speeding 16 MPH or more, but less than 21 MPH, over the limit .... 2 points

Speeding 21 MPH or more, but less than 26 MPH, over the limit .... 3 points

Speeding 26 MPH or more over the limit, but less than 31 MPH over the limit .... 4 points

Speeding 31 MPH or more over the limit .... 6 points"

On the roll call the vote was yeas 76-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Givhan, Gray, Hancock, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Little, Mann, May, Maynard, McBee, McBride, McGill, Muncy, O'Brien, Pearl, Priddy, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 11-Ackerson, Beshear, Blythe, Clarke, Denham, Guenthner, Mason, McNutt, Nett, Overstreet, Richards.

The Floor Amendment No. 2 to **HB 21** was adopted.

Representative Kleier moved the adoption of the following Floor Amendment No. 4 to **HB 21:**

Amend printed copy of House Bill 21, page 10, line 23, by adding the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

If, in the investigation of any motor vehicle accident or traffic violation it appears that any vehicle involved therein is uninsured, the law enforcement officer making the investigation shall issue a citation to the owner of the vehicle requiring such owner to appear in a court of proper jurisdiction for violation of KRS 304.99-050."

Agreed.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to **HB 21:**

Amend printed copy of House Bill 21, page 9, lines 23-25, by deleting the words:

"that county and the fiscal court or the urban county government shall issue rules and regulations"

And inserting in lieu thereof the words:

"accordance with rules and regulations issued by the Supreme Court".

Agreed.

Representative B. Richardson moved that **HB 21,** as amended, be passed.

On the roll call the vote was yeas 76-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Burnette, Carpenter, Clapp, Crupper, Cyrus, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, King, LeMaster, Lindsay, Little, Mann, May, Maynard, McBee, McBride, McGill, Muncy, O'Brien, Pearl, Priddy, Rattliff, B. Richardson, Romines, Sale, Schmidt, Siemens, Stephens, Stewart, Tobin, Thomas, J. R. Turner, Vincent, Wells, White, Wible, Wright, Yates. Nays 14-Beshear, Blythe, Brown, Bruce, Clarke, Dawahare, Denham, Kleier, Mason, McNutt, Morris, Nett, Overstreet, Robinson.

HB 21, as amended, was passed and the title agreed to.

Representative Wible moved that the vote by which **HB 21,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 34 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved the adoption of the following Floor Amendment No. 1 to **HB 34:**

Amend printed copy of House Bill 34, page 1, line 4, by inserting after the word "be" the words "*retained by*" and bracketing the word "distributed";

And on line 5, by bracketing the word "to".

Agreed.

Representative Benson moved that **HB 34,** as amended, be passed.

On the roll call the vote was yeas 95-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 34, as amended, was passed and the title agreed to.

Representative Benson moved that the vote by which **HB 34**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **SB 24** and **HB 5** with Senate Amendment.

Orders of the Day (continued)

HR 12 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Doss moved the adoption of **HR 12.**

HR 12 was adopted by voice vote.

SJR 4 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 88-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. R. Turner, Vincent, Wells, White, Wible, Wooden, Yates. Nays 3-Cooper, Hardwick, Wright.

SJR 4 was adopted and the title agreed to.

Representative B. Richardson moved that the vote by which **SJR 4** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

HB 28 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the following Floor Amendment No. 4 to **HB 28:**

Amend printed copy of House Bill 28, page 2, line 11, by deleting the words "*whenever the weekly payments under*";

And on page 2, lines 12-16 by deleting same and inserting in lieu thereof the following:

"*notwithstanding any section of KRS Chapter 342 to the contrary, there shall be no minimum weekly income benefit for permanent partial disability.*"

And on page 10, lines 23-26 by deleting same;

And on page 11, by deleting same;

And on page 12, lines 1-13 by deleting same;

And on page 12, line 14 by deleting "Section 3." and inserting in lieu thereof "Section 2."
And on page 17, after line 12 by adding the following:

"Section 3. KRS 342.122 is amended to read as follows:

(1) "Adjusted cost" as used in this section and in KRS 342.475 means all compensation, hospital and medical benefits paid thereunder, plus an additional factor of twelve percent (12%) of such total payments, to cover the administrative cost of the employer. However in no event shall "adjusted cost" be less than fifty percent (50%) of the basic insurance premium computed by applying current manual rates for workmen's compensation insurance to the payroll of every employer carrying his own risk and for this purpose each such employer shall annually furnish payroll data to the department of revenue. "Adjusted cost" shall not include amounts paid for injuries occurring prior to March 22, 1962.

(2) In addition to the taxes and assessments imposed by KRS 342.450 and 342.475, a Special Fund tax at the rate of three-fourths (3/4) of one percent (1%) of the amount of premiums received shall be paid by every insurance carrier as defined in KRS 342.445, subject to the credits therein set out, and the department of revenue shall assess against the "adjusted cost" of every employer carrying his own risk a special fund tax computed by taking three-fourths (3/4) of one percent (1%) of the "adjusted cost" determined as provided in KRS 342.475. The provisions of KRS 342.450, 342.455, 342.460, 342.465 and 342.470 shall, so far as applicable, also apply to the levy and collection of such additional tax of three-fourths (3/4) of one percent (1%) of such premiums of insurance carriers.

(3) All taxes and assessments imposed by subsection (2) of this section shall be paid into the state treasury and shall be credited to the special fund for the board, which fund shall be used only for the payment of awards of compensation made by the board and chargeable against said fund, expenses of legal representation thereof, fees and expenses of the physicians in connection therewith, and shall be withdrawn for that purpose under the supervision of the commissioner of labor.

(4) Any sum remaining in the special fund at the end of any fiscal year shall be set up by the executive department for finance and administration to the credit of such fund for the next ensuing fiscal year.

(5) If the commissioner of labor finds that the special fund tax levied pursuant to this section is insufficient to pay such claims awarded under the special fund provisions, he shall advise the commissioner of revenue in writing of such fact. The commissioner of revenue may then levy additional assessments against all insurance companies writing workmen's compensation insurance in Kentucky, including every employer carrying his own risk. The amount of each insurance company's assessment shall be in the proportion that each company's annual workmen's compensation premium writings in Kentucky bears to the total of all annual workmen's compensation premiums written in Kentucky. Such assessment will be based upon information contained in the insurance company's last filed annual statement with the Department of Insurance. Such assessments against every employer carrying his own risk will be based upon that proportion which the "adjusted cost" of such own risk carrier bears to the total "adjusted cost" of all such own risk carriers. "Adjusted cost" reports filed with the board in accordance with KRS 342.475 will be the basis of such determination. Such additional assessment against insurance companies and employers carrying their own risk shall be apportioned between the two classes as the total of premiums and the total of "adjusted cost" each bears to the combined total.

(6) Except for a two per cent (2%) collection fee allowance, all monies charged the insured for assessments and taxes under this chapter and KRS chapter 136 shall be paid into the state treasury and credited to the appropriate fund for which said assessment or tax is charged. In no case shall the monies turned over be less than ninety-eight per cent (98%) of the monies charged.

(7) [(6)] The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as herein set out and all monies and properties owned by the subsequent claim fund are transferred to the special fund.

Section 4. KRS 342.350 is amended to read as follows:

(1) In order to comply with KRS 342.340 groups of employers may form, either among themselves or with employers in other states, mutual insurance associations or reciprocal or interinsurance exchanges subject to the insurance laws of this state and such reasonable conditions and restrictions not inconsistent therewith as may be fixed by the board. Membership in such mutual insurance associations or reciprocal or interinsurance exchanges so approved, together with evidence of the payment of premiums due, shall be evidence of compliance with KRS 342.340.

(2) The board may, except as provided in subsection (3), require any mutual insurance association or reciprocal or interinsurance exchange to purchase an annuity or to effect reinsurance with a company authorized to transact insurance in this state or to make such deposit with a bank or trust company of this state as shall in either case be approved by the board for the purpose of fully securing the payment of all deferred instalments upon any claim for compensation.

(3) Any mutual insurance association or reciprocal or interinsurance exchange possessing a surplus of at least one hundred thousand dollars ($100,000) and not less in amount than the capital required of a domestic stock insurance company transacting the same kind of insurance, shall not be required to purchase an annuity or effect reinsurance with a company authorized to transact insurance in this state or to make such a deposit with a bank or trust company of this state for the purpose of fully securing the payment of all deferred instalments upon any claim for compensation.

(4) In addition, the board, under rules and regulations as it may prescribe, may permit two or more employers to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insurers and each employer member of such approved group shall be classified as a self-insurer as defined under this chapter. Employers securing certification as group self-insurers are regulated by the rules and regulations drawn by the workmen's compensation board and are not to be in any way subject to the provisions of subsections (1), (2) and (3) of this section.

Section 5. Chapter 55 of the 1976 Acts of the General Assembly, Part I.A.11.d. is amended to read as follows:

d. Coal Miners Pneumoconiosis Fund

1976-77	*$4,000,000*	[$9,000,000]
1977-78	*$4,000,000*	[$9,000,000]

These funds are appropriated to the Coal Miners Pneumoconiosis Fund. This fund shall be used for compensating coal worker claimants entitled to benefits for coal workers' pneumoconiosis or silicosis as defined in KRS Chapter 342. If, however, the production of coal severed within the meaning of KRS Chapter 143 shall be less than 150,000,000 tons for each fiscal year 1976-77 or 1977-78 the Fund shall be reduced at a rate of six (6) cents per ton to the severed tonnage for each said fiscal year.

Section 6. There is appropriated out of the general fund for the 1976-77 fiscal year, $5,000,000 and for the 1977-78 fiscal year, $5,000,000 to the Special Fund.

Section 7. Whereas, since January 1, 1976, the extremely high rates for workmen's compensation have caused many employers and industries to consider relocation outside the state, an emergency is declared to exist and this Act shall become effective January 1, 1977."

Agreed.

Representative B. Richardson moved that **HB 28,** as amended, be passed.

On the roll call the vote was yeas 96-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 28, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 28,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 6, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wells moved the adoption of the Committee Amendment to **HB 6**. Agreed.

Representative Wells moved that **HB 6**, as amended, be passed.

On the roll call the vote was yeas 93-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. R. Turner, Vincent, Wells, White, Wible, Wright, Yates. Nays 1-Lindsay.

HB 6, as amended, was passed and the title agreed to.

Representative Wells moved that the vote by which **HB 6**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 19 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 19** be passed.

Representative Hughes moved that **HB 19** be laid on the table.

On the roll call the vote was yeas 39-Beshear, Bevins, Blythe, Boatwright, Brinkley, Cooper, Cyrus, Dawahare, Deskins, Doss, Gray, Guenthner, Holbrook, Holloway, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Little, Mason, May, Maynard, McBride, McGill, McNutt, Morris, Overstreet, Priddy, Rattliff, Richards, Romines, Thomas, White, Wooden, Yates. Nays 39-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bennett, Benson, Blair, Blandford, Blume, Brown, Bruce, Burnette, Clapp, Clarke, Crupper, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Givhan, Hancock, Hopkins, Hurst, Jones, Mann, McBee, O'Brien, Pearl, B. Richardson, P. Richardson, Robinson, Siemens, Stewart, Tobin, J. R. Turner, Wible.

The motion that **HB 19** be laid on the table was rejected.

Representative Givhan moved that consideration of **HB 19** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative B. Richardson moved that **HB 12** be recommitted to the Committee on Counties and Special Districts.

On the roll call the vote was yeas 56-B. Adams, A. S. Adams, J. Allen, Beshear, Bevins, Blandford, Blume, Bruce, Carpenter, Clapp, Cooper, Crupper, Cyrus, DeMarcus, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Gray, Head, Holloway, Hopkins, Isler, Kenton, Kidd, King, Kleier, Little, Mann, Mason, May, McBee, McBride, McGill, Morris, Muncy, Nett, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siemens, Siler, Stephens, Stewart, Tobin, J. R. Turner, Vincent, Wells, Wible, Wooden, Wright. Nays 19-Ackerson, W. Allen, Bendl, Bennett, Blair, Blythe, Craddock, DeFalaise, Foster, Guenthner, Hancock, Holbrook, Hurst, LeMaster, Lindsay, McNutt, Pearl, Schmidt, Yates.

The motion that **HB 12** be recommitted to the Committee on Counties and Special Districts was adopted.

Representative Deskins requested that he be recorded as voting "yea" to recommit **HB 12**.

Announcements

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative B. Richardson moved that when the House adjourns it do so by voice vote and until 2 p.m., Wednesday, December 15, 1976. Agreed.

Representative B. Richardson moved that no other business except Report of Committees and filing of Floor Amendments be conducted on this day. Agreed.

Representative J. Ackerson requested that his name be added as co-sponsor of **HB 15.**

The following members filed Floor Amendments to Bills and Resolutions: Representative B. Richardson, No. 37 to **HB 32;** Representative Wooden, No. 2 and No. 3 to **HB 26;** Representative Lindsay, No. 2 to **SR 5;** Representative Lindsay, No. 7 to **HB 23;** Representative Wible, No. 1 to **SB 15;** Representative Overstreet, No. 1 to **HB 19;** Representative Nett, No. 1 and No. 2 to **HB 14;** Representative Romines, Title Amendment to **SJR 5;** Representative DeFalaise, No. 4 to **HB 19;** Representative White, No. 5 to **HB 19;** Representative Givhan, No. 2 to HB 19; and Representative Overstreet, No. 3 to **HB 19.**

Representative Wright requested that his vote be changed from "nay" to "yea" on the passage of **SR 4.**

The following meetings were announced:

Majority Caucus, 1:15 p.m., State Reception Room, December 15, 1976.

Committee Chairmen, 1 p.m., Speaker's office, December 15, 1976.

Committee on Health and Welfare and Committee on Elections and Constitutional Amendments cancelled for December 15, 1976.

Committee on Cities, 11 a.m., Room 305, December 15, 1976.

Special meeting Subcommittee on City Employee Pensions, 10 a.m., Room 307, December 15, 1976.

Recess

Representative Richardson moved that the House recess until 5:30 p.m. Agreed.

Representative DeFalaise assumed the Chair.

Representative B. Richardson moved that the Clerk read the Report of Committee. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 24.**

Counties and Special Districts: **SB 18.**

Judiciary-Courts: **SB 16.**

State Government: **HR 28, HB 50.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 48.**

Appropriations and Revenue: **SB 24.**

Counties and Special Districts: **SB 18.**

Judiciary-Courts: **SB 16.**

Report of Committees

The Committee on Highways and Traffic Safety reported **HR 26** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 26, A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study of the drivers licensing system in the Commonwealth.

WHEREAS, the issuance of drivers licenses is now the responsibility of the circuit court clerk; and

WHEREAS, the Judicial Article makes the circuit court clerk a judicial officer; and

WHEREAS, the issuance of drivers licenses is properly the function of the executive branch;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to study the drivers licensing system in the Commonwealth, including proper placement of issuance power and the structure and distribution of fees.

Section 2. The results of the study along with any recommendations shall be made available to the members of the General Assembly not later than September 1, 1977.

Section 3. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Adjournment

Representative B. Richardson moved that the House adjourn until 2 p.m. Wednesday, December 15, 1976.

The motion to adjourn was adoptedby voice vote.

WEDNESDAY, DECEMBER 15, 1976

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Wayne W. Price, First Presbyterian Church, Winchester, Kentucky.

The roll was called. All present except Representative Siler.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of December 14, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HR 29, by Representatives Deskins and Little: A RESOLUTION to adjourn the House in memory of Hazel Kitchen.

HR 30, by Representative Deskins: A RESOLUTION urging delay of a certain day.

HB 51, by Representative Dunn: AN ACT relating to election of judges.

Report of Committees

The Committee on Appropriations and Revenue reported **SB 6** and **HB 43** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 6, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.170 is amended to read as follows:
"Machinery for new and expanded industry" shall mean that machinery used directly in the manufacturing *or processing production* process, which is incorporated for the first time into plant facilities established in this state, and which does not replace machinery in such plants. *The term "processing production" shall include: the processing and packaging of raw materials, in-process materials, and finished products; the processing and packaging of farm and dairy products for sale; and the extraction of minerals, ores, coal, clay, stone and natural gas.*

HB 43, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.270 is amended to read as follows:

(1) Each subject employer's contribution rate shall be two and seven-tenths percent except as otherwise provided in this section.

(2) No subject employer's contribution rate shall be less than two and seven-tenths percent unless benefits were chargeable to his account with respect to the thirty-six consecutive months immediately preceding the computation date.

(3) Except as otherwise provided in this section, for the calendar year 1972 and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out in subsection (4) of this section; provided that for the calendar year 1972 such rates shall not exceed those set out in "Column (A)" and for the calendar year 1973 shall not exceed those set out in "Column (B)." Prior to each calendar year the secretary shall determine, as of the 31st day of October, the fund solvency factor by dividing the "benefit cost rate" into the "statewide reserve rate." If such factor:

(a) Equals or exceeds 1.8, the rates listed in "Schedule A" of "Table A" shall be in effect.

(b) Equals or exceeds 1.50 but is less than 1.80, the rates listed in "Schedule B" of "Table A" shall be in effect.

(c) Equals or exceeds 1.2 but is less than 1.5, the rates listed in "Schedule C" of "Table A" shall be in effect.

(d) Equals or exceeds *0.6* [1.0] but is less than 1.20, the rates listed in "Schedule D" of "Table A" shall be in effect.

(e) Is less than *0.6* [1.0], no subject employer's contribution rate shall be less than two and seven-tenths percent and the contribution rate for any subject employer whose individual reserve ratio as of the computation date is less than zero (because benefits have been charged in excess of contributions) shall be four and two-tenths percent.

(4) For the calendar year 1972 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A", as set out below, effective with respect to such calendar year, which appears on the same line as his reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A

Employer Reserve Ratio	Rate Schedule (A)	Rate Schedule (B)	Rate Schedule (C)	Rate Schedule (D)
6.0% and over	0.1%	0.2%	0.3%	0.4%
5.0% but under 6.0%	0.2%	0.3%	0.6%	0.8%
4.6% but under 5.0%	0.3%	0.6%	0.9%	1.2%
4.2% but under 4.6%	0.5%	0.8%	1.2%	1.6%
3.9% but under 4.2%	0.8%	1.0%	1.5%	2.1%
3.6% but under 3.9%	1.0%	1.3%	1.8%	2.4%
3.2% but under 3.6%	1.3%	1.6%	2.0%	2.6%
2.7% but under 3.2%	1.6%	2.0%	2.2%	2.7%
2.0% but under 2.7%	2.0%	2.2%	2.4%	2.7%
1.3% but under 2.0%	2.4%	2.5%	2.7%	2.7%
0.0% but under 1.3%	2.7%	2.7%	2.7%	2.7%
-5.0% but under 0.0%	3.0%	3.2%	3.5%	3.7%
Less than -5.0%	3.2%	3.5%	3.7%	4.0%

(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

(a) "Trust fund balance" means the amount of money in the Unemployment Insurance Fund. In determining the amount in the fund as of a given date all money received by the department as of such date shall be considered as being in the fund on such date.

(b) "Total wages" means all remuneration for services, as defined in subsections (1) to (5) of KRS 341.030, paid by subject employers.

(c) "Statewide reserve rate" means the percentage ratio obtained by dividing the total wages for the four calendar quarters ending on the 30th day of September, which have been reported to the department on or before the immediately following 31st day of October, into the "trust fund balance" as of that same date.

(d) "Benefit cost rate" means the percentage ratio obtained by dividing the total amount of benefits paid during the highest twelve consecutive calendar-month period since 1956 by the total wages reported to the department for the four quarters ending immediately prior to the end of such twelve-month period.

(e) An employer's "reserve ratio" means the percentage ratio of his reserve account balance as of the computation date to his taxable payrolls for the thirty-six months last preceding such computation date.

(f) An employer's "reserve account balance" means the amount by which contributions credited to his reserve account exceed benefits charged to such account. If benefits charged to an account exceed contributions credited to such account as of the computation date, such account shall be considered as having a debit balance and a reserve ratio of "less than zero."

(g) "Computation date" means the date, occurring at least once in each calendar year and within twenty-seven weeks prior to the effective date of new rates of contribution, as of which individual employer contribution rates are computed. The secretary shall by regulation prescribe the computation date.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bill:

Counties and Special Districts: **HB 49.**

Calendar

HB 41, HB 42, SR 5, SB 10, and **HR 26** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report of Committees (continued)

The Committee on Rules reported **HB 10, HB 16, HB 23, HB 41, HB 42, HR 26, SB 10,** and **SR 5** have been posted for passage in Orders of the Day, December 16, 1976.

The Committee on Rules reported **HB 4** has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Rules reported **SB 15** has been recommitted to the Committee on Judiciary-Courts.

Motions, Petitions, and Communications

Representative B. Richardson moved that the rules be suspended to recess for committee meetings. Agreed.

Recess

Representative B. Richardson moved that the House recess for thirty minutes. Agreed.

At the appointed hour, the Speaker resumed the chair and called the House to order.

Motions, Petitions, and Communications (continued)

The following members filed Floor Amendments to Bills and Resolutions: Representative Romines, No. 38 to the Committee Substitute for **HB 32;** Representative Lindsay, No. 8 to the Committee Substitute for **HB 23;** Representative Yates, No. 1 to **SB 12;** Representative Priddy, No. 2 to **SB 12;** Representative Nett, No. 3 to **SB 12;** Representative Hughes, No. 4 to **SB 12.**

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Thomas, **HB 34, HB 6, HB 28;** Representative Bevins, **HB 34, HB 6, HB 15;** Representative Ackerson, **HR 10;** Representative Romines, **HR 16.**

Representative B. Richardson moved that the rules be suspended to allow the committees to finish their work. Agreed.

Recess

Representative B. Richardson moved that the House recess for thirty minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report on Enrolled Bills

The Committee on Enrollment reported **SR 4** had been examined and found correctly enrolled. **SR 4** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Motions, Petitions and Communications (continued)

Representative Clarke moved that the rules be suspended to allow the rule requiring floor amendments to be filed twenty-four hours before being considered on the floor to be waived with regard to **HB 30.** Agreed.

Representative Deskins moved the adoption of the following **HR 29:**

HR 29, A RESOLUTION to adjourn the House in memory of Hazel Kitchen.
WHEREAS, Hazel Kitchen, teacher, civic leader, tireless public servant and loyal friend has departed this earthly life; and
WHEREAS, Hazel Kitchen was a distinguished citizen of Kentucky; and
WHEREAS, Hazel Kitchen was a Pike County school teacher for 42 years, was repeatedly elected as a delegate to both the Kentucky Educational Association and the National Education Association and was a past president of both the Pike County Education Association and the Eastern Kentucky Education Association and was a representative of Pike County to the Southern Association of Colleges and Secondary Schools; and
WHEREAS, Hazel Kitchen was for many years active in Eastern Star and was chosen Worthy Matron; and
WHEREAS, Hazel Kitchen was a past president of the Women's Club; and
WHEREAS, Hazel Kitchen was chosen Bicentennial First Lady of the Tug Valley Area; and
WHEREAS, Hazel Kitchen was active in church activities and taught Sunday School in the Stone Methodist Church for many years; and
WHEREAS, the Hazel Kitchen Senior Citizens Center was named in her honor;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives pay tribute to the memory of Hazel Kitchen by adjourning in her honor this fourteenth day of December, 1976.

Section 2. That the Clerk of the House be directed to forward copies of this resolution to the Belfry High School and to the family of Hazel Kitchen.

HR 29 was adopted by voice vote.

Representative Clarke moved that **HB 30** be placed in Orders of the Day, December 16, 1976, if it is given a favorable report out of the Committee on Appropriations and Revenue. Agreed.

Representative Sale moved the adoption of the following Legislative Citation No. 9:

The House of Representatives of the Commonwealth of Kentucky hereby honors Henry Parks of the Harrodsburg High School Varsity Football Team for having received five honors for his outstanding accomplishments during the 1976 football season. Henry Parks was named the State top offensive player by a poll of State Football Coaches conducted by the Lexington Herald and was selected as a member of an All State Team in separate actions by UPI, AP, Louisville Courier Journal and the Lexington Herald and was designated Captain of the Lexington Herald Team. This body commends this player and extends best wishes for his continued success. (Sponsored by Representative Sale)

Agreed.

Orders of the Day

HR 16 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved the adoption of **HR 16.**

On the roll call the vote was yeas 60-Ackerson, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brown, Carpenter, Dawahare, DeFalaise, DeMarcus, Dietz, Dunn, Floyd, Gay, Guenthner, Hancock, Holloway, Hopkins, Hughes, Hurst, Isler, Kenton, Kidd, King, Kleier, LeMaster, Mann, Maynard, McBee, McBride, McGill, McNutt, Muncy, Nett, O'Brien, Priddy, Rattliff, Robinson, Romines, Sale, Schmidt, Siemens, Stephens, Stewart, Thomas, J. R. Turner, R. A. Turner, Wells, White, Wible, Wooden, Wright, Yates. Nays 10-Cooper, Cyrus, Denham, Doss, Gray, Holbrook, Jones, Mason, Morris, Tobin.

HR 16 was passed and the title agreed to.

Representative Benson moved that the rules be suspended for the purpose of taking a call of the roll to show co-sponsors of **HR 16.** Agreed.

The following members voted to co-sponsor **HR 16:** Ackerson, Arnold, Bendl, Bennett, Beshear, Bevins, Blume, Blythe, Dunn, Guenthner, Holloway, Hopkins, Hughes, Kenton, Kidd, Kleier, LeMaster, Mann, Maynard, McBride, McGill, Nett, O'Brien, Priddy, Siemens, Stephens, Wible, Wooden, Wright, Yates.

Representative Benson moved that the vote by which **HR 16** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HCR 10 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeFalaise moved the adoption of **HCR 10.**

On the roll call the vote was yeas 87-Ackerson, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Stephens, Stewart, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 3-Beshear, Doss, Pearl.

HCR 10 was adopted and the title agreed to.

Representative DeFalaise moved that the vote by which **HCR 10** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

SB 5 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Allen moved the adoption of the following Floor Amendment No. 2 to **SB 5:**

Amend printed copy of Senate Bill 5 on page 3, line 1, by deleting the word "check" and inserting in lieu thereof the word "confer"

and on page 3, line 2, by inserting before the word "the" the words "as to"

Agreed.

Representative Clarke moved the adoption of the following Floor Amendment No. 3 to **SB 5:**

Amend printed copy of Senate Bill 5 on page 2, line 26, by inserting after the word "enters" the words "a working section of"

On the roll call the vote was yeas 36-Ackerson, W. Allen, Beshear, Bevins, Blythe, Brown, Clarke, Cooper, Craddock, Dawahare, DeFalaise, DeMarcus, Denham, Freeman, Gay, Hancock, Holbrook, Kidd, Kleier, LeMaster, Mason, Maynard, McBride, Nett, O'Brien, Overstreet, Pearl, Robinson, Schmidt, Siemens, Tobin, Thomas, R. A. Turner, Wooden, Wright, Yates. Nays 48-B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Blair, Blandford, Blume, Boatwright, Brinkley, Bruce, Clapp, Cyrus, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Gray, Guenthner, Head, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, King, Mann, May, McBee, McNutt, Morris, Muncy, Priddy, Richards, B. Richardson, P. Richardson, Sale, Stephens, Stewart, J. R. Turner, Vincent, White, Wible.

The Floor Amendment No. 3 to **SB 5** was rejected.

Representative Freeman moved that consideration of **SB 5** be deferred and that it retain its position in Orders of the Day.

On the roll call the vote was yeas 42-Ackerson, A. S. Adams, W. Allen, Bennett, Benson, Beshear, Bevins, Blythe, Brown, Burnette, Carpenter, Clarke, Cooper, Dawahare, DeFalaise, DeMarcus, Denham, Freeman, Holbrook, Hughes, Isler, Jones, Kidd, Kleier, LeMaster, Mason, Maynard, McBride, McGill, McNutt, Nett, O'Brien, Overstreet, Pearl, Romines, Stephens, Tobin, Thomas, Wible, Wooden, Wright, Yates. Nays 38-J. Allen, Arnold, Bendl, Blair, Blandford, Brinkley, Bruce, Clapp, Craddock, Cyrus, Deskins, Dietz, Doss, Dunn, Fitzgerald, Foster, Gray, Guenthner, Hancock, Head, Holloway, Hurst, Imes, Kenton, King, Little, McBee, Morris, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Stewart, J. R. Turner, R. A. Turner, Vincent, White.

The motion that consideration of **SB 5** be deferred and that it retain its position in Orders of the Day was adopted.

HB 19 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved the adoption of the following Floor Amendment No. 2 to **HB 19**:

Amend printed copy of House Bill 19, on page 1, line 3, after "(1)" add "*In courts of continuous session*"

Page 1, line 17, after "within" omit the word " [sixty]" and add "*ninety*"

Page 1, lines 18, 19 and 20, add a "." after the word "information" and omit " [at such place within the judicial district or circuit as fixed by the appropriate judicial officer]"

On the roll call the vote was yeas 63-Ackerson, B. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Blume, Blythe, Burnette, Carpenter, Clapp, Clarke, Cooper, Cyrus, DeFalaise, Denham, Dunn, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Hopkins, Hurst, Imes, Isler, Jones Kenton, Kidd, Kleier, LeMaster, Mason, May, Maynard, McBride, McGill, McNutt, Morris, Nett, Pearl, Priddy, Rattliff, Richards, P. Richardson, Robinson, Romines, Sale, Siemens, Stephens, Stewart, Tobin, J. R. Turner, R. A. Turner, Vincent, Wible, Wright, Yates. Nays 3-Bruce, DeMarcus, Gay.

Floor Amendment No. 2 to **HB 19** was adopted.

Representative DeFalaise moved the adoption of the following Floor Amendment No. 4 to **HB 19**:

Amend printed copy of House Bill 19 on page 4, line 25, insert "(1)" before the word "If"

Page 5, line 2, after the word "defendant" insert the words ", except if the Commonwealth Attorney or the court, within the time specified in subsection (2) of this Section, sets the case for trial on a day certain the motion shall be dismissed."

Page 5, after line 14, add the words:

"(2) The time schedule referred to in subsection (1) above shall be as follows:

OFFENSE CHARGED	TIME WITHIN RECEIPT OF DEFENDANTS MOTION IN WHICH TO SET TRIAL DATE.
Class A Felony and Capital Offense	30 days
Class B Felony	20 days
Class C Felony	15 days
Class D Felony and misdemeanors	10 days

(3) If a defendant is not arraigned within the time limit required by Section 1 of this Act, the indictment or information shall be dismissed on motion of the defendant, except if the Commonwealth Attorney or the court, within five days, sets the arraignment, the motion shall be dismissed."

On the roll call the vote was yeas 68-Ackerson, B. Adams, W. Allen, Arnold, Bennett, Blandford, Blythe, Boatwright, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Guenthner, Hancock, Hardwick, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, King, Kleier, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, Robinson, Sale, Schmidt, Siemens, Stewart, Tobin, J. R. Turner, R. A. Turner, White, Wible, Wright, Yates. Nays 12-Bendl, Benson, Bevins, Blume, Cyrus, Gray, Holbrook, Kenton, Kidd, McBride, McGill, Stephens.

Floor Amendment No. 4 to **HB 19** was adopted.

Representative Overstreet moved the adoption of Floor Amendment No. 3 to **HB 19.**

Representative Hughes moved that **HB 19,** as amended, be laid on the table.

On the roll call the vote was yeas 49-A. S. Adams, J. Allen, W. Allen, Bendl, Beshear, Bevins, Blair, Blume, Bruce, Carpenter, Cooper, Craddock, Cyrus, Dawahare, Deskins, Dietz, Doss, Dunn, Floyd, Foster, Gray, Guenthner, Holbrook, Hughes, Imes, Isler, Kenton, Kidd, King, LeMaster, Little, Mann, May, Maynard, McBride, McNutt, Morris, Overstreet, Priddy, Richards, B. Richardson, Romines, Stephens, Stewart, Tobin, Thomas, J. R. Turner, Vincent, White. Nays 39-Ackerson, B. Adams, Arnold, Bennett, Benson, Blandford, Blythe, Boatwright, Burnette, Clapp, Clarke, DeFalaise, DeMarcus, Fitzgerald, Gay, Givhan, Hancock, Hardwick, Holloway, Hopkins, Hurst, Jones, Kleier, Lindsay, Mason, McBee, McGill, Nett, O'Brien, Pearl, P. Richardson, Robinson, Sale, Siemens, R. A. Turner, Wible, Wooden, Wright, Yates.

HB 19, as amended, was laid on the table.

HB 26, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wright moved the adoption of the Committee Substitute for **HB 26.** Agreed.

Representative Hopkins moved the adoption of the Floor Amendment No. 1 to **HB 26.**

The Speaker ruled Floor Amendment No. 1 to **HB 26** not germane to the call of the Extraordinary Session.

Representative Wright moved that **HB 26,** by way of Committee Substitute, be passed.

Representatives Hopkins and Overstreet challenged the ruling of the Chair.

The Speaker vacated the Chair.

The Speaker Pro Tempore Clapp assumed the Chair.

On the roll call the vote was yeas 16-Ackerson, W. Allen, Blythe, DeFalaise, DeMarcus, Gay, Guenthner, Holbrook, Holloway, Hopkins, Hurst, Maynard, Muncy, Overstreet, Rattliff, Schmidt. Nays 59-B. Adams, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Hancock, Head, Hughes, Imes, Isler, Jones, Kenton, King, LeMaster, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Nett, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Siemens, Stephens, Tobin, R. A. Turner, Vincent, Wells, Wible, Wright, Yates.

The ruling of the Chair that Floor Amendment No. 1 to **HB 26** was not germane to the call of the Extraordinary Session was upheld.

The Speaker resumed the Chair.

Representative Wooden moved the adoption of the Floor Amendment No. 3 to **HB 26.**

The Speaker ruled Floor Amendment No. 3 to **HB 26** not germane to the call of the Extraordinary Session.

Representative Wright moved that **HB 26,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 93-Ackerson, B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Siemens, Stephens, Stewart, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 0.

HB 26, by way of Committee Substitute, was passed.

Representative Wright moved that the vote by which **HB 26,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 27** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 14 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved the adoption of the following Floor Amendment No. 1 to **HB 14:**

Amend printed copy of House Bill 14 by striking everything after the enacting clause and inserting in lieu thereof the following:

"Section 1. KRS 431.215 is amended to read as follows:
If the judgment imposes a sentence of [death or] confinement in the penitentiary, county jail or other institution, two certified copies thereof shall be furnished forthwith to the sheriff who shall execute the same by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail or institution of confinement and making a written return thereof in the office of the clerk of the court within ten days after the execution.

Section 2. KRS 532.030 is amended to read as follows:

(1) When a person is convicted of *an* [a capital] offense *for which the punishment is life imprisonment without the privilege of parole* he shall have his punishment fixed at *life imprisonment without the privilege of parole* [death]. However, any crime classified as *an* [a capital] offense *punishable by life imprisonment without the privilege of parole* may at the discretion of the state be prosecuted as a Class A felony, provided such election to so prosecute is made at the time of indictment.

(2) When a person is convicted of a Class A felony he shall have his punishment fixed at imprisonment in accordance with KRS 532.060.

(3) When a person is convicted of an offense other than *an* [a capital] offense *for which the punishment is life imprisonment without the privilege of parole* or Class A felony, he shall have his punishment fixed at:

(a) A term of imprisonment authorized by this chapter; or
(b) A fine authorized by KRS Chapter 534; or
(c) Both imprisonment and a fine unless precluded by the provisions of KRS Chapter 534.

Section 3. KRS 507.020 is amended to read as follows:

(1) A person is guilty of murder when:

(a) With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of manslaughter in the first degree or any other crime; or

(b) Under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to another person and thereby causes the death of another person.

(2) Murder is a Class A felony, except that in the following situations it is *an* [a capital] offense *for which the punishment is life imprisonment without the privilege of parole*:

(a) The defendant's act of killing was intentional and was for profit or hire;

(b) The defendant's act of killing was intentional, and occurred during the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;

(c) The defendant's act of killing was intentional and the defendant was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties;

(d) The defendant's act of killing was intentional and the death was caused through use of a destructive device, as defined in KRS 237.030(1);

(e) The defendant's act or acts of killing were intentional and resulted in multiple deaths; or

(f) The defendant's act of killing was intentional and the victim was a police officer, sheriff or deputy sheriff engaged at the time of the act in the lawful performance of his duties; or

(g) The defendant's act of killing was intentional and the defendant and the victim were both prisoners.

Section 4. KRS 509.040 is amended to read as follows:

(1) A person is guilty of kidnapping when he unlawfully restrains another person and when his intent is:

(a) To hold him for ransom or reward; or

(b) To accomplish or to advance the commission of a felony; or

(c) To inflict bodily injury or to terrorize the victim or another; or

(d) To interfere with the performance of a governmental or political function; or

(e) To use him as a shield or hostage.

(2) Kidnapping is *an* [a capital] offense *for which the punishment is life imprisonment without the privilege of parole* unless the defendant voluntarily releases the victim alive, substantially unharmed, and in a safe place prior to trial, in which case it is a Class B felony.

Section 5. KRS 532.010 is amended to read as follows:

Felonies are classified, for the purpose of sentencing, into five categories:

(1) [Capital] Offenses *for which the punishment is life imprisonment without the privilege of parole*;

(2) Class A felonies;

(3) Class B felonies;

(4) Class C felonies; and

(5) Class D Felonies.

Section 6. KRS 532.040 is amended to read as follows:

When a person is convicted of an offense, other than *an* [a capital] offense *for which the punishment is life imprisonment without the privilege of parole*, the court, where authorized by KRS Chapter 533, may sentence such person to a period of probation or to a period of conditional discharge as provided in that chapter. A sentence to probation or conditional discharge shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with KRS Chapter 533, but for purposes of appeal shall be deemed to be a final judgment of conviction. In any case where the court imposes a sentence of probation or conditional discharge, it may also impose a fine as authorized by KRS Chapter 534.

Section 7. KRS 532.050 is amended to read as follows:

(1) No court shall impose sentence for conviction of a felony, other than *an* [a capital] offense *for which the punishment is life imprisonment without the privilege of parole*, without first ordering a presentence

investigation after conviction and giving due consideration to a written report of such investigation.

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The sources of confidential information need not, however, be disclosed.

Section 8. KRS 533.010 is amended to read as follows:

(1) Any person who has been convicted of a crime and who has not been sentenced to *life imprisonment without the privilege of parole* [death] may be sentenced to probation or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment the court shall consider the possibility of probation or conditional discharge. After due consideration of the nature and circumstances of the crime and the history, character and condition of the defendant, probation or conditional discharge should be granted unless the court is of the opinion that imprisonment is necessary for protection of the public because:

(a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime; or

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

Section 9. KRS 431.218, 431.220, 431.240, 431.250, 431.260 and 431.270 are repealed."

On the roll call the vote was: 18 Yeas—77 Nays.

The Floor Amendment No. 1 to **HB 14** was rejected.

Representative Nett moved the adoption of the following Floor Amendment No. 2 to **HB 14:**

Amend printed copy of House Bill 14 on page 1, by deleting line 21 in its entirety;

and on page 2, line 1, by removing the bracket before "(2)", and on line 5, by inserting a bracket before "The", and on line 9, by inserting a bracket after "(c)" and by inserting the following after line 12:

"*(c) The defendant's act of killing was intentional and occurred after he had been convicted of killing a human being.*"

and on page 2, line 13, by inserting a bracket before "(d)".

On the roll call the vote was yeas 11-Bendl, Blume, Clarke, Kenton, Kidd, King, Kleier, McGill, Nett, Priddy, Wooden. Nays 80-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, LeMaster, Lindsay, Mann, Mason, Maynard, McBee, McBride, McNutt, Morris, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Siemens, Stephens, Stewart, Tobin, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wright, Yates.

The Floor Amendment No. 2 to **HB 14** was rejected.

Representative Clapp moved that **HB 14** be passed.

On the roll call the vote was yeas 82-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, LeMaster, Lindsay, Mason, May, Maynard, McBee, McNutt, Morris, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Siemens, Stephens, Stewart, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wright, Yates. Nays 13-Bendl, Benson, Blume, Clarke, Kenton, Kidd, Kleier, Little, Mann, McBride, McGill, Nett, Wooden.

HB 14 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 14** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **SB 17, SB 20,** and **SB 23.**

The following members filed Floor Amendments to Bills and Resolutions: Representative Freeman, No. 4 and No. 5 to **SB 5;** Representative Benson, No. 1 to **HB 27;** Representative Dawahare, Nos. 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, and 62 to **HB 32.**

Orders of the Day (continued)

HB 32, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wible moved the adoption of the Committee Substitute to **HB 32.**

Representative Gray moved that the House adjourn until December 16, 1976, at 2:00 p.m.

On the roll call the vote was yeas 33-Ackerson, A. S. Adams, W. Allen, Arnold, Bendl, Beshear, Blythe, Brown, Carpenter, Crupper, Cyrus, Dawahare, Denham, Dunn, Floyd, Gay, Gray, Guenthner, Hurst, Kidd, Kleier, Maynard, Nett, Overstreet, Priddy, Rattliff, P. Richardson, Romines, Siemens, Stewart, J. R. Turner, White, Wooden. Nays 50-B. Adams, Bennett, Benson, Bevins, Blandford, Blume, Burnette, Clapp, Clarke, Cooper, Craddock, DeFalaise, DeMarcus, Deskins, Doss, Fitzgerald, Foster, Givhan, Hancock, Holbrook, Holloway, Hopkins, Isler, Jones, Kenton, King, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, McNutt, O'Brien, Pearl, Richards, B. Richardson, Robinson, Schmidt, Stephens, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wright, Yates.

The motion to adjourn was rejected.

Representative Kleier moved that consideration of **HB 32** be postponed until 11:00 a.m., December 16, 1976.

On the roll call the vote was yeas 21-A. S. Adams, W. Allen, Bennett, Blandford, Blythe, Brinkley, Brown, Crupper, Dawahare, Floyd, Freeman, Gay, Gray, Guenthner, Hardwick, Kidd, Kleier, Morris, Overstreet, P. Richardson, Romines. Nays 61-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blair, Blume, Boatwright, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Doss, Dunn, Fitzgerald, Givhan, Hancock, Holbrook, Hopkins, Hughes, Imes, Isler, Jones, Kenton, King, Lindsay, Mann, Mason, May, Maynard, McBee, McBride, McGill, McNutt, Pearl, Richards, B. Richardson, Robinson, Schmidt, Siemens, Stephens, Stewart, Tobin, J. R. Turner, R. A. Turner, Vincent, Wells, Wible, Wright Yates.

The motion that consideration of **HB 32** be postponed until 11:00 a.m., December 16, 1976, was rejected.

Representative Benson moved the adoption of the Previous Question on **HB 32.**

On the roll call the vote was yeas 58-B. Adams, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Blythe, Brinkley, Burnette, Clapp, Cooper, Craddock, DeFalaise, Deskins, Dietz, Dunn, Foster, Guenthner, Head, Holbrook, Holloway, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mason, May, Maynard, McBee, McGill, McNutt, Nett, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Siemens, Stephens, Stewart, Tobin, Thomas, J. R. Turner, Vincent, Wells, Wible, Wooden, Yates. Nays 30-Ackerson, A. S. Adams, J. Allen, W. Allen, Beshear, Brown, Crupper, Cyrus, DeMarcus, Denham, Doss, Fitzgerald, Floyd, Freeman, Gay, Givhan, Gray, Hancock, Hardwick, Hopkins, Hurst, Mann, McBride, Muncy, O'Brien, Overstreet, Rattliff, Robinson, R. A. Turner, Wright.

The motion that the Previous Question on **HB 32** be adopted was adopted.

On the roll call the vote was yeas 54-B. Adams, J. Allen, Arnold, Bennett, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Bruce, Burnette, Clapp, Clarke, Cooper, Craddock, DeFalaise, Deskins, Dietz, Doss, Dunn, Fitzgerald, Foster, Head, Imes, Isler, Jones, Kenton, King, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McNutt, Morris, Muncy, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Schmidt, Stephens, Stewart, Tobin, Thomas, J. R. Turner, Vincent, Wells, Wible, Wright. Nays 40-Ackerson, A. S. Adams, W. Allen, Bendl, Benson, Beshear, Blythe, Brown, Carpenter, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Floyd, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Kleier, Maynard, McBride, Nett, Overstreet, Priddy, Robinson, Romines, Siemens, R. A. Turner, White, Wooden, Yates.

The Committee Substitute for **HB 32** was adopted.

Representative Wible moved that **HB 32,** by way of Committee Substitute, be passed.

The Chair ruled that the Previous Question applied to the Committee Substitute to **HB 32** and no amendments could be acted upon or added.

Representatives Givhan and Lindsay filed appeal No. 1 to the ruling of the Chair.

The Speaker vacated the Chair.

The Speaker Pro Tempore assumed the Chair.

On the roll call the vote was yeas 27-Ackerson, W. Allen, Bendl, Benson, Beshear, Crupper, Dawahare, DeFalaise, DeMarcus, Denham, Freeman, Gay, Givhan, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, McGill, Overstreet, Rattliff, Robinson, Siemens, White, Wooden. Nays 58-B. Adams, J. Allen, Arnold, Bennett, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Burnette, Clapp, Clarke, Cooper, Craddock, Cyrus, Deskins, Dietz, Doss, Dunn, Fitzgerald, Foster, Gray, Head, Hughes, Imes, Isler, Jones, Kenton, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McNutt, Morris, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Stephens, Stewart, Tobin, J. R. Turner, R. A. Turner, Vincent, Wells, Wible, Wright, Yates.

The ruling of the Chair that the Previous Question applied to the Committee Substitute to **HB 32** and no amendments could be acted upon or added was upheld.

The Speaker resumed the Chair.

Representative Givhan moved the reading of Amendment No. 1 to **HB 32.**

Representative Benson moved that the vote by which the Previous Question was adopted be reconsidered.

The Chair ruled the Previous Question may not be reconsidered.

Representatives Givhan and Lindsay filed appeal No. 2 to the ruling of the Chair.

The Speaker vacated the Chair.

The Speaker Pro Tempore assumed the Chair.

On the roll call the vote was yeas 16-Ackerson, W. Allen, Beshear, Brinkley, Crupper, Dawahare, Freeman, Gay, Givhan, Hancock, Hardwick, Hopkins, Hurst, Kleier, Overstreet, R. A. Turner. Nays 53-B. Adams, J. Allen, Bennett, Bevins, Blair, Blandford, Blume, Boatwright, Burnette, Clapp, Cooper, Craddock, Cyrus, DeFalaise, Deskins, Dietz, Doss, Dunn, Fitzgerald, Foster, Gray, Head, Holbrook, Hughes, Imes, Isler, Jones, Kenton, King, LeMaster, Lindsay, Mann, Mason, May, Maynard, McBee, McBride, McNutt, O'Brien, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Stephens, Stewart, Tobin, J. R. Turner, Vincent, Wells, Wible, Wright, Yates.

The ruling of the Chair that the vote on the Previous Question may not be reconsidered was upheld.

On the roll call the vote was yeas 63-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, DeFalaise, Deskins, Dietz, Dunn, Fitzgerald, Foster, Hancock, Head, Holbrook, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McNutt, Morris, Muncy, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Schmidt, Stephens, Stewart, Tobin, Thomas, J. R. Turner, Vincent, Wells, Wible, Wright. Nays 33-Ackerson, W. Allen, Benson, Beshear, Brown, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Doss, Floyd, Freeman, Givhan, Gray, Guenthner, Hardwick, Holloway, Hopkins, Hurst, Kleier, McGill, Nett, Overstreet, Priddy, Rattliff, Robinson, Romines, Siemens, R. A. Turner, White, Wooden, Yates.

HB 32, by way of Committee Substitute, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 32,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all remaining Bills and Resolutions be deferred and that they retain their position in Orders of the Day. Agreed.

Announcements

The following meetings were announced:

Committee on Appropriations and Revenue, on recess, Room 305.

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative B. Richardson moved that when the House adjourns, it do so by voice vote and until 2:00 p.m., December 16, 1976. Agreed.

Representative B. Richardson moved that the rules be suspended to allow a meeting of the Committee on Appropriations and Revenue and the Committee on Rules to meet during recess.

Representative B. Richardson moved that no other business be conducted on this day other than Report of Committees, Senate Messages, Introduction of Bills and Resolutions, Reference of Bills and Resolutions, and Posting of Bills and Resolutions for Consideration. Agreed.

Recess

Representative B. Richardson moved that the House recess for fifteen minutes. Agreed.

At the appointed hour, Representative Clapp assumed the Chair.

Representative B. Richardson moved that the House proceed with the business agreed upon. Agreed.

Introduction of Bills and Resolutions

HR 31, by Representatives Kleier, Dawahare, LeMaster, Isler, and Fitzgerald: A RESOLUTION requesting the Legislative Research Commission to appoint a special committee to study the feasibility of establishing a legislative delegation office in each area development district.

HR 32, by Representative Yates: A RESOLUTION requesting that the Kentucky Department of Transportation investigate a drainage problem.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Highways and Traffic Safety: **HR 32.**

Judiciary-Courts: **SB 20, SB 23, HB 51.**

State Government: **SB 17, HR 31.**

Report of Committees

The Committee on Judiciary-Courts reported **SB 16** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 16, AN ACT relating to judicial elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.395 is repealed.

The Committee on State Government reported **HR 25** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 25, A JOINT RESOLUTION requiring a study of the demand for and prospective costs of military service credit for members of Kentucky retirement systems.

WHEREAS, the 1974 General Assembly established a program to permit members of the Kentucky Employes Retirement System, State Police Retirement System and County Employes Retirement System who are eligible for retirement or who are vested in their respective systems to receive current service credit for a maximum of four years of military service; and

WHEREAS, implementation of the military service credit program is dependent upon the availability of funds appropriated by the General Assembly for that purpose; and

WHEREAS, the request for an additional appropriation for the military service credit program contained on page 9 of the 1976 Extraordinary Session Executive Budget states that, "it is difficult to estimate the number of members still seriously interested in purchasing military credit," but notes that there is evidence of continuing demand for the program; and

WHEREAS, the General Assembly cannot assess the need for the military service credit program nor adequately evaluate requests for appropriations for the program without information concerning the demand for and prospective costs of the program;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Board of Trustees of the Kentucky Retirement Systems shall conduct, or cause to be conducted, the necessary survey and audit to determine the number of persons who became members of the Kentucky Employes Retirement System, State Police Retirement System, or County Employes Retirement System on or before December 31, 1976, who are eligible, or may become eligible to participate in the military service credit program established by KRS 61.555(4) and (5), KRS 16.541(3), and KRS 78.545(6). The Board shall determine the proportion of those eligible members who are interested in participating in the program and shall also determine the cost to the state of funding the military service credit program for those eligible members who are interested in participating in the program.

Section 2. That the Board of Trustees of the Kentucky Retirement Systems shall report the findings of the study required by Section 1 to the 1978 General Assembly.

Section 3. There is appropriated to the Kentucky Retirement Systems from the General Fund in the State Treasury for the calendar year 1977, the sum of $50,000 for the purpose of conducting the study required by this resolution. Any part of this appropriation in excess of the amount required to complete the study required by this resolution shall not be credited to the general account of the Kentucky Retirement Systems but shall revert to the General Fund.

The Committee on Elections and Constitutional Amendments reported **SB 1,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 1, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.015 is amended to read as follows:

(1) A "political party" within the meaning of this chapter, is an affiliation or organization of electors representing a political policy and having a constituted authority for its government and regulation, and which cast at least twenty per cent (20%) of the total vote cast at the last preceding election at which presidential electors were voted for.

(2) The word "election" used in reference to a state, district, county or city election, includes the decisions of questions submitted to the qualified voters as well as the choice of officers by them.

(3) An "official ballot" means the voting machine ballot label, an absentee ballot, a special ballot or a supplemental paper ballot which has been authorized for the use of the voters in any primary, general or special election by the secretary of state or the county court clerk.

Section 2. KRS 118.215 is amended to read as follows:

(1) Not less than forty-five (45) days before a primary or regular election is to be held, and after the order of the names has been determined as provided in KRS 118.225, the secretary of state shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device under which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors. Candidates for county offices shall be listed in the following order: county judge, commonwealth's attorney, county attorney, circuit clerk, county clerk, sheriff, jailer, county commissioner, property valuation administrator, coroner, justice of the peace and constable. The names of candidates for president and vice president shall be certified in lieu of certifying the names of the candidates for presidential electors.

(2) All independent candidates whose nominating petitions are filed with the county clerk shall be listed under the title and device designated by them, or if none is designated, under the word "independent". The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for such city offices grouped according to the offices they seek, and such candidates shall be immediately arranged under and beneath the title of office such candidates seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which such candidates are to be elected shall be separated from the preceding or succeeding groups by a line transversing the entire ballot and spaced so as to avoid confusion on the part of the voter.

(4) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the state

board of elections not less than 35 days before the primary or general election. The state board of elections shall meet within 5 days of such notice, review the ballot conditions and determine whether or not supplemental paper ballots are necessary for the election. Upon approval of the state board of elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote, provided that all candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

Section 3. KRS 117.145 is amended to read as follows:

(1) At least two (2) days before any special election and at least fifteen (15) days before any primary or regular election, the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of such size as will fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of special paper ballots. The special ballot shall be used for voting by absent voters; by voters so disabled by age, infirmity or illness as to be unable to appear at the polls; and for voting in an emergency situation. The ballot stubs shall be consecutively numbered and the county board shall keep a record, by number, of all special ballots used for any of the purposes listed herein.

(3) At least three (3) days before a special or regular election the county clerk shall equip the voting machines with the necessary supplies for the purpose of write-in votes. The county clerk shall also attach a pencil or pen to the voting machine for write-in purposes.

(4) *If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall cause to be printed a sufficient number of paper ballots for the registered voters of each precinct. The paper ballots shall have stubs which are numbered consecutively. The quality of paper on which the supplemental paper ballots are printed shall be determined by regulations promulgated by the secretary for the executive department for finance and administration.* [If the court finds the candidate is not a bona fide candidate it must so order, and certify the fact to the board of elections, and the candidate's name shall be stricken from the written designation of election officers filed with the board of elections or the court may refuse recognition or relief in a mandatory or injunctive way. The order of the circuit court shall be entered on the order book of the court and shall be subject to a motion to set aside in the Court of Appeals. The motion shall be heard by the Court of Appeals or a judge thereof in the manner provided for dissolving or granting injunctions, except that the motion must be made before the court or judge within five (5) days after the entry of the order in the circuit court, and may be heard and tried upon the original papers, and the order of the Court of Appeals or judge thereof shall be final.

(5) No person shall approach the circuit judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him.]

Section 4. KRS 117.175 is amended to read as follows:

The county clerk shall, with the county attorney prepare a sufficient number of instruction cards containing a diagram showing the front of the voting machine as it will appear on the day of the election, instructions as to the proper method of voting by the use of the machine and instructions as to the proper method of casting a write-in vote. *If supplemental paper ballots have been approved, as provided in KRS 118.215, the instruction cards shall indicate the offices, candidates and questions which will appear on the paper ballots and the instructions for marking and depositing the ballots.* The cards shall be examined and approved by the county board of elections at the time the machines are examined and approved. The cards shall be delivered to each election clerk by the county clerk at the time that other election supplies are delivered and the election clerk shall post the card at the polling place.

Section 5. KRS 117.195 is amended to read as follows:

(1) At least one (1) hour prior to the opening of the polls, the county clerk shall deliver each machine, with the operating device and mechanism and the device covering the registering counters securely locked, to the clerk of the precinct in which it is to be used, and shall take a receipt therefor indicating the distinguishing number of the machine. The clerk of the precinct shall cause the machine to be arranged in the voting place in such a manner that the front of the machine, on which appear the ballot labels and the operating devices, will not be visible, when being operated, to any person other than the voter.

(2) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall, at least one hour prior to the opening of the polls, deliver a sufficient number of ballots for the registered voters of each precinct, a sufficient number of voting booths for voting paper ballots, string, rubber stamps for marking "Spoiled" and "Unused" ballots and a locked ballot box for each precinct. The county clerk shall take a receipt for the number of ballots issued and the ballot box for each precinct. The county

clerk shall retain the keys to all ballot boxes.

Section 6. KRS 117.215 is amended to read as follows:

(1) If, during the conduct of an election, a machine becomes in a state of disrepair so that it cannot be operated in a manner that will comply with the provisions of this chapter, the election officers shall lock or seal the machine in such a manner as to prevent further voting thereon and record the numbers shown by the public counter. Then the election officers shall secure from the county clerk a reserve voting machine, which shall be prepared and made ready for use as provided in KRS 117.205, and thereupon proceed to conduct the election. When the polls are closed both the original and reserve voting machines shall be examined and the votes thereon registered shall be counted as provided in KRS 117.275 and the aggregate number of votes cast on both machines for each candidate and on each question shall be certified as the result of the election in that precinct.

(2) If an emergency should arise *due to the malfunction of the voting machine*, the county clerk shall provide special ballots for use at the precinct and a ballot box in which to deposit the voted ballots. The ballot box shall be locked with two (2) locks and the judges of the precinct shall each hold the key to one (1) lock. At the close of voting, the ballots shall be counted and added to the votes cast by machine. The aggregate of these votes shall be certified as the result of the election in that precinct.

Section 7. KRS 117.225 is amended to read as follows:

(1) Any person desiring to vote on election day shall give his name and address to the clerk of the election. If the person's name is listed on the precinct list furnished by the state board of elections as provided in KRS 117.025 or as provided in KRS 117.015, and if no challenge is made, he shall sign his name on the precinct list in the space opposite his printed name. The voter's signature shall constitute his verification that he is a properly registered and qualified voter. The voter shall then retire alone to cast his vote on the voting machine. There shall be provided by the county board of elections to each precinct the original registration form of each voter entitled to vote in that precinct. This form shall be for comparative signature purposes.

(2) If supplemental paper ballots are used, as provided in KRS 118.215, the voter shall sign his name on the precinct list in the space opposite his name, take the supplemental paper ballot with the stub intact and retire alone to the voting booth provided for voting paper ballots. After voting the supplemental paper ballot, the voter shall remove the numbered stub, hand the stub to an election official and deposit the voted ballot in the locked ballot box. The voter shall then retire alone to cast his vote on the voting machine.

Section 8. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the mechanical model, in the use of the machine, if the voter so requests.

(2) No voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. Upon making and filing with the judges such oath, the voter shall retire to the voting machine, with the judges, and one of the judges shall then, in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer. The clerk shall swear the person accompanying the disabled or blind voter to operate the voting machine in accordance with the directions of the disabled or blind voter, and the disabled or blind voter and the person sworn shall then enter the voting booth and the one so sworn shall operate the machine for the disabled or blind voter as he directs. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance, and the judges of election shall enter in writing, on a record of assisted voters, the voter's name and the specific physical disability which required him to receive assistance.

(3) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(4) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(5) If the machine is so constructed as to require adjustment after one (1) person has voted before another person may vote, the judges of election shall so adjust it after each person has voted.

(6) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(7) In elections for president and vice president, if a voter is eligible to vote only for the office of president and vice president a judge of the election shall adjust the machine so that the voter will only be able to vote for president and vice president.

(8) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled", initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall then be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials. The voter shall then retire alone to cast his vote on the voting machine.

Section 9. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any such precinct, any candidate and any representatives to witness and check the count of the votes therein, who are hereby authorized to be appointed as is provided in subsection (6) of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation, and they shall then sign a certificate stating:

(a) That the machine has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting machine, which certificate shall be returned by the judges of election to the officials authorized by law to receive the same. The judges shall then compare the number of voters, as shown by the counter of the machine, with the number of those who have voted as shown by the protective or accumulative counter or device.

(3) The judges, in the presence of the representatives mentioned in subsection (1), if any, and of all other persons who may be lawfully within the polling place, shall then make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the same, giving full view of all the counter numbers. The judges shall, under the scrutiny of such representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the judges. The total vote cast for each candidate, and for and against each question, and the votes written in, shall then be entered on the general and quadruplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective or accumulative counter or device on each machine immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, quadruplicate return sheets shall remain exposed to view until the said returns and all other reports have been fully completed.

(4) The proclamation of the result of the votes cast shall be announced distinctly and audibly by one of the judges of election, who shall read the name of the vote cast for each candidate and the vote for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the judges, after which the doors or other cover of the voting machine shall be closed and locked and the return sheet shall be signed by each of the judges of election. If any judge shall decline to sign such return, he shall state his reason therefor in writing, and a copy thereof, signed by him, shall be enclosed with such return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the judges shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and precinct list, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. Said envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes, the county board shall immediately mail the tabulation result, the general return sheets and the precinct lists from each precinct to the state board of elections.

(5) As soon as possible after the completion of the count, the election officers shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the clerk of the county court in which the precinct is located shall have the voting machine properly boxed or securely covered

and removed to a proper and secure place of storage.

(6) In primary elections, each candidate or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

(7) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two precinct judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the secretary of state. The county board of elections shall authorize the candidates or their representatives and representatives of the news media to be present during the counting of the paper ballots. The county clerk shall retain the paper ballots for sixty days, after which time they shall be burned by the county board of elections if no contest or recount action has been filed.

SECTION 10. A NEW SECTION OF KRS 118.305 to 118.425 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of determining the order in which the names of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots under the designation of the respective offices, the secretary of state shall prepare lists of the counties of each congressional district of the state. He shall then arrange the surnames of all candidates for each office in alphabetical order for the first congressional district, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the secretary of state, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2 p.m. standard time, fifty-three (53) days before the general election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m., standard time, fifty-three (53) days before the general election.

(4) If the number of certified candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the state board of elections, as provided in KRS 118.215.

Section 11. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than fifty-five (55) days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the primary election.

(5) Not less than forty-five (45) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice. [Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.]

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot." Above the names of candidates for nomination shall be printed the words "Vote for one," or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(9) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 12. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(2) Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (1), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice. [Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.]

(4) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 13. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than seventy (70) days before the primary. If the vacancy occurs on or after the seventieth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and section 152 of the Constitution of Kentucky.

(2) Each candidate shall file a petition for candidacy with the secretary of state at least fifty-five (55) days before the day fixed by law for holding the regular election.

(3) The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy. The petition shall be in the form prescribed by the state board of elections.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(5) Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice. [Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.]

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 14. KRS 119.195 is amended to read as follows:

(1) Any person who, during an election, knowingly and willfully removes or attempts to remove *an official* [a special] ballot from the election room, or has in his possession outside the election room any *official* [special] ballot, either genuine or counterfeit, shall be imprisoned in the penitentiary for not less than two (2) years nor more than five (5) years.

(2) Any voter who attempts to leave the election room with *an official* [a special] ballot in his possession shall at once be arrested on demand of either of the judges of election and shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(3) Any person who takes or removes in any manner, feloniously or with the consent or permission of the custodian, any *official* [special] ballot from any place where it may lawfully be, or knowingly and willfully has in his possession or custody any such *official* [special] ballot except as an officer or custodian under the law or while within the polling place for the purpose of voting, and any custodian or officer who permits any *official* [special] ballot to be removed or carried away from the place where it may lawfully be by any person other than the officer or custodian whose duty it is to receive it, shall be imprisoned in the penitentiary, for not less than three (3) years nor more than ten (10) years.

(4) Any election officer, or other person entrusted with the custody or control of any *official* [special] ballot, either before or after it has been voted, who in any way marks, mutilates or defaces any *official* [special] ballot or places any distinguishing mark thereon, for the purpose of vitiating the *official* [special] ballot, shall be fined not more than two thousand dollars ($2,000) and imprisoned in the penitentiary for not less than five (5) years nor more than ten (10) years.

(5) Any person who unlawfully destroys or attempts to destroy any *official* [special] ballot box used, or any *official* [special] ballot deposited, at any election, or who unlawfully, by force, fraud or other improper means, obtains or attempts to obtain possession of any ballot box or any *official* [special] ballot therein deposited, while the voting at any election is going on or before the *official* [special] ballots are duly taken out and counted according to law, shall be confined in the penitentiary for not less than one (1) year nor more than five (5) years, and fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000).

(6) Any election officer who mutilates or tampers with any of the seals, or destroys or removes any *official* [special] ballots required to be preserved, shall be confined in the penitentiary for not less than one (1) year nor more than three (3) years.

(7) Any county clerk who knowingly and willfully opens any ballot box and removes any *official* [special] ballot therefrom, or removes, destroys or tampers with a ballot box and *official* [special] ballots left in his care and custody, or permits any other person to do so, during the period the boxes are required to remain locked in his office, shall be confined in the penitentiary for not less than one (1) year nor more than three (3) years.

(8) Any person who removes, mutilates or destroys, or adds any new *official* [special] ballots to, the regular *official* [special] ballots that have been counted and prepared for preservation, or that have already been preserved, so that the result of the election in the precinct or county is changed, shall be confined in the penitentiary for not less than one (1) year nor more than three (3) years.

(9) Any person who tampers with or changes the *official* [special] ballots, or opens the receptacles in which the *official* [special] ballots are contained without the order of the court, after the ballots have been sent to the Franklin County courthouse in connection with the contest of a constitutional amendment, shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), and imprisoned in

the county jail for not less than six (6) months nor more than one (1) year.

Section 15. KRS 424.290 is amended to read as follows:

(1) Not less than three days before any primary or regular election the county court clerk shall cause to be published in a newspaper a copy of the face of the voting machines. Where the voting machine faces differ for various precincts within the county, the county clerk shall cause to be published only one voting machine face with appropriate notations showing the differences in the various precincts. *If supplemental paper ballots have been approved as provided in KRS 118.215, the paper ballot shall be published at the same time as the face of the voting machine.* The cost of publication shall be paid by the county, except that the cost of publishing any voting machine face that is limited to a city election or a district election other than a school district election, shall be paid by the city or the district as the case may be.

(2) "Copy," as used in subsection (1) of this section, means a summary of a voting machine face showing all the pertinent information that will appear on a particular voting machine face.

The Committee Amendment to **SB 1** is as follows:

Amend printed copy of Senate Bill 1 on page 9, line 6, after the word "provide" add "*a backup voting machine or*"

On page 9, line 11, after the word "counted" add "*at the precinct or a central counting center*"

On page 10, line 6, after "*KRS 118.215,*" add "*after voting on the voting machine*" and delete "*sign his name on the precinct list in the space opposite his name,*"

On page 10, line 13 delete "*The voter shall then retire alone to cast his vote on the voting machine.*"

On page 13, line 1 delete "*The voter shall then retire alone to cast his vote on the voting machine.*"

The Committee on Judiciary-Statutes reported **HB 47** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 47, AN ACT relating to criminal offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.080 is amended to read as follows:

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (6) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (6) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender in the second degree is a person who is more than twenty-one years of age and who stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen years at the time the offense was committed; and

(c) That the offender*:*

1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

2. Was on probation or parole from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation or parole *on the previous felony conviction* within five years *prior to* [of] the date of commission of the felony for which he *now stands* [was last] convicted.

(3) A persistent felony offender in the first degree is a person who is more than twenty-one years of age and who stands convicted of a felony after having been convicted of two or more felonies. As used in this

provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen years at the time the offense was committed; and [was discharged from probation or parole within five years of the date of commission of the felony for which he was last convicted.]

(c) That the offender:

1. Completed service of the sentence imposed on any of the previous felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or

2. Was on probation or parole from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation or parole on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted.

(4) For the purpose of determining whether a person has two or more previous felony convictions, two or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one conviction, unless one of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation or conditional release.

(6) A person who is found to be a persistent felony offender in the first degree shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A or Class B felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty years nor more than life imprisonment; or

(b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten years nor more than twenty years.

(7) A person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, nor for parole until having served a minimum term of incarceration of not less than ten years.

The Committee on Appropriations and Revenue reported **HB 20,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute for **HB 20** is as follows:

HB 20, AN ACT relating to circuit clerks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 30A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of Sections 1 through 18 of this Act, "clerk" means the circuit court clerk serving in his capacity as clerk of both the circuit court and the district court.

(2) As personnel within the Court of Justice, clerks are state officers whose duties are coextensive with the Commonwealth, and who are subject to the administrative control of the Chief Justice.

SECTION 2. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Every clerk and deputy, in addition to the oath prescribed by Section 228 of the Constitution, shall, before entering on the duties of his office, take the following oath in presence of the circuit court: "I, , do swear that I will well and truly discharge the duties of the office of ---------- County circuit court clerk, according to the best of my skill and judgment, making the due entries and records of all orders, judgments, decrees, opinions and proceedings of the court, and carefully filing and preserving in my office all books and papers which come to my possession by virtue of my office; and that I will not knowingly or willingly commit any malfeasance of office, and will faithfully execute the duties of my office without favor, affection or partiality, so help me God." The fact that the oath has been administered shall be entered on the record of the circuit court.

SECTION 3. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) All clerks, deputy clerks, and other persons employed in the office of the clerk shall be bonded to the Commonwealth for the faithful performance of their duties and for the accounting of all funds which may come into their hands by virtue of their office. They shall be covered by the blanket bond for all elected or appointed state officials.

(2) No other bond shall be required for performance of duty by the clerk, and any statute to the contrary is repealed to the extent of the conflict.

SECTION 4. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Every circuit court and every district court shall have a clerk's office in each county, and shall have such branch offices within the county as are approved by the Supreme Court. Minimum office hours of the clerk's offices shall be determined by the Supreme Court.

SECTION 5. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) The number and qualifications of deputy clerks and other employes in the office of each clerk shall be determined by the administrative office of the courts after consultation with the clerk concerned. All deputies and employes of the clerk's office shall be employes of the Commonwealth.

(2) Deputy circuit clerks, authorized by and under the direction of the circuit clerk, shall have full power to perform such duties as may be performed by the circuit clerk; and any act of a deputy clerk is entitled to the same faith and credit as that of the clerk.

(3) Deputy clerks and all other employes in the office of the clerk shall be compensated according to the pay schedule established by the judicial personnel system.

(4) The clerk may employ and dismiss such deputies and other employes.

SECTION 6. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Each clerk shall prepare in a proper manner every bond to be taken by or given before him or his court.

(2) The clerk shall refuse any surety offered in a bond to be taken by him who is, in his opinion, insufficient.

(3) The clerk shall prepare bail bonds as required by subsection (1) of this section; however, additional public officers or employes may be authorized by rule or order of the Supreme Court to prepare and accept bail bonds to be taken by the clerk or for his court. Such bail bonds shall have the same validity as if prepared or taken by the clerk.

SECTION 7. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Every clerk may administer oaths, in or out of court, touching any matter in which an oath may be legally administered, and may take any affidavit requested or permitted in the progress of a proceeding in his court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Every clerk shall maintain such records, files, dockets and indexes as are prescribed by statute or rule.

(2) All necessary record books and all necessary supplies required by the clerk's office shall be procured through the administrative office of the courts and paid for by the Court of Justice.

(3) No clerk shall permit the records or papers of his office to be taken out of his office except in case of invasion or insurrection, or other catastrophe, or pursuant to rule or order of court, and then he shall cause them to be returned as soon as the necessity for the removal ceases to exist.

(4) Records may be permanently transferred from the clerk's office by rule or order of the Supreme Court.

SECTION 9. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Unless the plaintiff has established his right to prosecute as a poor person as provided by statute or rule, each clerk shall, when a proceeding is filed in his court, collect the filing fee fixed by law. He shall also collect any charges which have accrued during the progress of the action.

(2) The clerk shall collect all other fees required by law or court rule or order.

SECTION 10. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

At the termination of an action, every clerk shall assess the costs of each party and file it with the case. The assessment shall be subject to correction by the court by motion upon notice given.

SECTION 11. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Each clerk shall pay to each juror, each jury commissioner, and to each witness the compensation allowed to him by law, under appropriations provided by the general assembly and in accordance with procedures governing expenditures from appropriations. He shall take a receipt for each payment made by him showing the date on which payment is made. A cancelled check shall be the equivalent of a receipt. For the purpose of providing for such payments, the state treasurer, on direction of the executive department for finance and administration, shall advance to each clerk two imprest funds: one for the payment of jurors and jury commissioners which shall be sufficient for the period of service of each grand or petit jury panel, or both, but not to exceed a period of sixty (60) days; the other for the payment of Commonwealth witnesses, which shall be sufficient for a period of time not to exceed sixty (60) days.

(2) Each clerk shall be liable on his official bond to account for the full amounts advanced to him under this section. Each clerk shall file a separate statement concerning each imprest fund with the executive department for finance and administration, in such form as the department prescribes, showing the amounts disbursed since the last preceding report, accompanied by a copy of the cancelled check, or a receipt for each amount disbursed signed by the person to whom it was paid, and showing the date of the payment and such other information as the department prescribes. These reports shall be forwarded to the department within thirty (30) days after the end of the period for which funds are advanced.

(3) Any clerk who fails to comply with the provisions of subsection (2) shall be required to pay a penalty of five percent (5%) of all funds not so paid or accounted for.

SECTION 12. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) Every clerk shall collect all fines and forfeitures imposed in district and circuit court, and shall issue receipts therefor.

(2) At the close of business daily the clerk in each county shall deposit in a bank designated as a state depository the proceeds from fines and forfeitures, and within three working days after the first and fifteenth of each month submit to the executive department for finance and administration a report listing all fines and forfeitures collected, and shall pay over to the department in the manner prescribed by the department at the same time all costs, fines, forfeitures, and other moneys so reported.

(3) Upon the failure of the clerk to submit to the department, within the prescribed period, the required report and to pay over, at the same time, the costs, fines, forfeitures and other moneys collected, the department shall immediately notify the auditor of public accounts that the clerk concerned is delinquent in the matter.

SECTION 13. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Every clerk shall prepare, attest and certify copies of all documents and records in his office upon payment of the charge established by statute.

SECTION 14. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Every clerk shall perform such additional duties as may be prescribed by statute or court rule.

SECTION 15. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Whenever a vacancy occurs in the office of the clerk, the chief judge of the judicial circuit shall, within thirty (30) days appoint a qualified successor to the office who shall serve until replaced as provided by Section 152 of the Constitution.

SECTION 16. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Upon the resignation, removal from office or expiration of the term of office of a clerk, he shall immediately deliver to his successor, or such other person as the court orders, all books, records, and other papers belonging to his office. For failure to do so he shall be guilty of a Class A misdemeanor.

SECTION 17. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Each circuit clerk shall be, ex officio, a special circuit clerk of the Commonwealth, and as such shall perform the duties and services required by Section 87 of this Act, at such time and places, coextensive with the Commonwealth, as required by the Chief Justice.

SECTION 18. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

In the event of a vacancy in the office of circuit clerk in any county, the Chief Justice may assign any other circuit clerk in the Commonwealth as special circuit clerk to fill the vacancy for a period not to exceed thirty (30) days, or until a person is appointed to fill the vacancy as provided by law, whichever occurs first.

SECTION 19. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS: The salaries of circuit clerks, payable out of the state treasury, per annum shall be:

County	Calendar Year 1978	Calendar Year 1979 and Thereafter
Adair	$17,726	18,000
Allen	18,000	18,000
Anderson	10,595	12,361
Ballard	15,000	15,000
Barren	20,727	22,000
Bath	12,236	13,832
Bell	18,539	20,224
Boone	20,759	22,000
Bourbon	19,119	20,000
Boyd	20,726	22,610
Boyle	20,726	21,000
Bracken	8,791	10,820
Breathitt	8,765	10,788
Breckinridge	14,851	16,788
Bullitt	20,726	22,000
Butler	18,000	18,000
Caldwell	12,921	14,606
Calloway	19,356	21,000
Campbell	20,726	22,610
Carlisle	13,822	15,000
Carroll	14,159	15,000
Carter	18,000	18,000
Casey	17,674	18,000
Christian	20,726	22,610
Clark	17,751	19,365
Clay	20,726	21,000
Clinton	15,000	15,000
Crittenden	15,000	15,000
Cumberland	14,102	15,000
Daviess	20,726	22,610
Edmonson	14,085	15,000
Elliott	8,765	10,788
Estill	18,000	18,000
Fayette	20,726	22,610
Fleming	11,201	13,068
Floyd	19,356	21,116
Franklin	20,726	22,000
Fulton	15,000	15,000
Gallatin	10,000	10,000
Garrard	16,092	18,000
Grant	17,843	18,000
Graves	19,356	21,116
Grayson	11,552	13,477
Green	11,038	13,585
Greenup	20,726	22,000
Hancock	15,000	15,000
Hardin	20,726	22,610
Harlan	20,726	22,000
Harrison	13,481	15,239
Hart	16,856	18,000
Henderson	20,726	22,000
Henry	17,991	18,000
Hickman	15,000	15,000

Hopkins	20,726	22,610
Jackson	15,307	17,304
Jefferson	20,726	22,610
Jessamine	17,921	18,000
Johnson	15,505	17,527
Kenton	20,726	22,610
Knott	11,752	13,285
Knox	20,726	21,000
Larue	16,997	18,000
Laurel	16,798	18,989
Lawrence	10,516	12,269
Lee	7,505	9,237
Leslie	17,736	18,000
Letcher	13,844	15,650
Lewis	12,604	14,248
Lincoln	20,000	20,000
Livingston	12,921	14,606
Logan	20,726	21,000
Lyon	13,301	15,000
McCracken	20,726	22,610
McCreary	16,030	18,000
McLean	10,576	13,017
Madison	20,726	22,610
Magoffin	17,444	18,000
Marion	20,000	20,000
Marshall	18,292	19,955
Martin	18,000	18,000
Mason	19,118	20,000
Meade	20,000	20,000
Menifee	7,049	8,676
Mercer	20,000	20,000
Metcalfe	11,041	13,589
Monroe	10,517	12,944
Montgomery	16,391	18,529
Morgan	14,245	16,103
Muhlenberg	20,726	22,000
Nelson	20,726	21,000
Nicholas	5,989	7,371
Ohio	15,050	17,527
Oldham	20,000	20,000
Owen	15,000	15,000
Owsley	10,717	12,503
Pendleton	10,717	12,503
Perry	20,726	21,000
Pike	20,726	22,610
Powell	15,000	15,000
Pulaski	20,726	22,610
Robertson	3,871	4,764
Rockcastle	15,548	17,576
Rowan	17,881	19,507
Russell	17,668	18,000
Scott	20,000	20,000
Shelby	20,000	20,000
Simpson	18,000	18,000
Spencer	15,000	15,000
Taylor	20,000	20,000
Todd	10,748	12,539
Trigg	14,027	15,000
Trimble	12,926	14,612
Union	10,022	12,335
Warren	20,726	22,610

Washington	12,115	13,695
Wayne	19,104	20,000
Webster	18,000	18,000
Whitley	12,778	14,445
Wolfe	12,029	13,598
Woodford	17,251	18,819

Section 20. KRS 186.531 is amended to read as follows:

(1) The cost of operator's licenses, motorcycle operator's license and permits shall be as follows:

(a) The fee for any original or renewal license, including motorcycle operator's license, shall be $4.00, except that the fee for a combination motor vehicle-motorcycle operator's license shall be $7.00

(b) The fee for any instruction permit shall be fifty cents plus fifty cents (50¢) for preparing and acknowledging such application;

(c) The fee for a duplicate license shall be $2.00; and

(d) The fee for a non-driver's identification card shall be $2.00.

(2) The circuit clerk shall *deposit in the state treasury to the credit of the General Fund except as provided in subsection (f)* [retain] fees pertaining to applications and license fees in the following manner:

(a) One dollar and seventy-five cents ($1.75) of any original and renewal license, except that the fee retained for a combination motor vehicle-motorcycle operator's license shall be $3.00;

(b) Fifty cents (50¢) for issuance of any instruction permit;

(c) Fifty cents (50¢) for preparing and acknowledging an application for an instruction permit;

(d) One dollar and twenty-five cents ($1.25) for preparing and acknowledging an application for a duplicate;

(e) One dollar and twenty-five cents ($1.25) for each non-driver's identification card; and

(f) For each original, renewal, duplicate license and non-driver's identification card, fifty cents (50¢) shall be credited to a special account within the state road fund and shall be used by the department of transportation exclusively for the purpose of issuing a photo license.

(3) The remainder of all fees, and other moneys collected by the circuit court clerk shall be forwarded to the department of transportation.

(4) The photo licenses shall be in use and the procedures prescribed by KRS 186.412 and 186.413 shall be fully implemented by January 1, 1975.

Section 21. KRS 235.090 is amended to read as follows:

On Monday of each week the circuit court clerk shall make a written report to the division of driver licensing which shall include the name and address of those persons who have applied for registration of motorboats, the length and type of such motorboat, and the registration fee charged and the amount of registration fee collected from the applicant. This report shall cover the period of the calendar week preceding the report. The applications for registration and the fees collected by the clerk shall be forwarded with the said report to the division of driver licensing. The clerk shall collect from each owner a fee in the sum of fifty cents for each registration in addition to the registration fee *which sum shall be deposited in the manner provided for in Section 12 of this Act.*

Section 22. KRS 235.130 is amended to read as follows:

(1) No person acting for himself or another shall buy or trade for any motorboat without receiving the certificate of number issued for that boat for the current period with a certificate of transfer indorsed thereon.

(2) It shall be the duty of the purchaser to record the indorsed certificate of number with the circuit court clerk of the county of the purchaser's residence or in which the motorboat is to be principally operated and to pay a transfer fee of one dollar. The clerk thereupon shall forward the indorsed certificate of number and the transfer fee to the division of driver licensing. Upon receipt of the indorsed certificate the division shall thereupon issue a new certificate of number bearing the same date and information required on the original certificate of number except the change in owner's name and address. The clerk shall charge the purchaser a fee of fifty cents. *The fees provided in this section shall be deposited in the manner provided for in Section 12 of this Act.*

Section 23. KRS 269.230 is amended to read as follows:

(1) The clerk of the circuit court shall receive from the corporation not more than ten cents (10¢) for each parcel of land assessed, *and shall deposit such sums in the manner provided for in Section 12 of this Act* [as compensation for copying and certifying the assessment and apportionment]. The clerk of the county court shall receive the same fees for recording the assessment in his office.

(2) The board of directors of the corporation shall annually, in January, file with the county clerk a detailed statement of all money received by it, from whom received and how spent.

Section 24. KRS 281.726 is amended to read as follows:

(1) No owner or operator of a motor vehicle used for hire shall permit such motor vehicle to be operated upon the highways unless the driver or chauffeur thereof has obtained a certificate of the department of transportation to the effect that the driver or chauffeur has met its requirements with respect to his health, vision, sobriety, intelligence, care, ability and experience. Certificates shall expire in the same month as the expiration date of the applicant's operator's license issued pursuant to KRS 186.410.

(2) No owner or operator of a motor vehicle used for hire shall permit such motor vehicle to be operated upon the highways unless the driver or chauffeur thereof is at least eighteen (18) years of age.

(3) The circuit clerk of each county shall:

(a) Act for the department of transportation for the purpose of issuing certificates and badges referred to in subsections (1) and (4) of this section;

(b) Issue a certificate, when he has determined that the applicant has fully complied with the law governing applications;

(c) Report to the department of transportation not later than the week following that in which the certificates were issued;

(d) Keep adequate records of all moneys collected and remitted to the department of revenue;

(e) Keep in his office at all times available to the department of transportation a record of all certificates issued in his county.

(4) The cost of the certificate shall be as follows: if the applicant's operator's license expires within six (6) months or less, $1.00; if within seven (7) to twelve (12) months, $2.00; if within thirteen (13) to eighteen (18) months, $3.00; and if within nineteen (19) to twenty-four (24) months, $4.00. *These costs* [The circuit court clerk shall retain fifty cents (50¢) to defray expenses of issuing the certificate and maintenance of records, and the remainder] shall be paid into the state treasury and credited to the state road fund. The holder of such a certificate, at all times when operating a motor vehicle for hire, shall have the certificate in his possession indicating that he is a certified driver or chauffeur.

(5) The department may, for good cause, upon complaint or upon its own motion revoke or suspend any such certificate, and said person shall be entitled to a hearing before the department of transportation.

SECTION 25. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

All fees, fines, forfeitures and costs in any district court or circuit court case shall be collected and accounted for by the circuit court clerk and paid into the state treasury, except that sixty percent (60%) of any fine imposed for the violation of Chapter 150 shall when collected be paid into the fish and game fund.

SECTION 26. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Each circuit court clerk, shall on the first day of each month, send to the Executive Department for Finance and Administration a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month pursuant to Section 3 of KRS 431.530 and shall, with such statements, send to the state treasury the amount so collected for deposit to the credit of the General Fund.

(2) The circuit court clerk shall send to the state treasury for credit to the General Fund all balances from fees collected pursuant to KRS 431.530.

(3) The Administrative Office of the Courts shall certify to the Executive Department for Finance and Administration on an annual basis that all funds collected have been duly reported by the circuit clerk in accordance with Section 4 of this Act.

(4) The Administrative Office of the Courts shall cause to be published an annual audit of the funds collected pursuant to Section 4 of this Act no later than December 1 for the preceding fiscal year receipts.

Section 27. (1) Sections 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of this Act shall become effective January 2, 1978.

(2) Sections 4, 6, and 14 of this Act shall become effective at the normal effective date for legislation passed at the 1976 extraordinary session of the General Assembly.

The Committee on Cities reported **SB 12,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 12, AN ACT relating to wastewater collection projects of metropolitan sewer districts and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

Existing metropolitan sewer districts created pursuant to the provisions of KRS 76.010 to 76.210 may provide for, construct, and finance wastewater collection projects according to the financing plan set forth in KRS Chapters 76 and 107. This authority is in addition to any authority otherwise conferred upon any metropolitan sewer district. If any metropolitan sewer district has undertaken any proceedings under any other law to construct a project, it may abandon such proceedings and proceed under the provisions of KRS Chapters 76 and 107. It is the purpose of KRS Chapters 76 and 107 to extend permissive authority to metropolitan sewer districts to finance wastewater collection projects according to the assessed value basis, whereby benefited properties shall be assessed the cost of such projects according to benefits conferred upon such properties.

SECTION 2. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

Any metropolitan sewer district created in the manner provided in KRS Chapter 76 may, if the board of such district deems it advisable, use the authority and procedures granted to incorporated municipalities by KRS 107.010 through 107.220. When applied to metropolitan sewer districts, terms used in KRS 107.010 through 107.220 shall be construed to mean the following: "city" or "municipality" means "metropolitan sewer district" (except that in KRS 107.090(d), KRS 107.130, KRS 107.140(2)(a) and (c) and KRS 107.150 referring to city taxes the term "city" shall continue to mean "city"); "ordinance" means "resolution"; "clerk" means "secretary of the metropolitan sewer district"; and "mayor or chairman of the board of directors" means "chairman of board of the metropolitan sewer district".

SECTION 3. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

In undertaking wastewater collection projects under KRS Chapters 76 and 107, metropolitan sewer districts are vested with exclusive authority to plan, design, initiate, finance, and carry out construction of the projects solely according to the requirements and procedures of KRS Chapters 76 and 107. However, no project may be financed, no bonds may be issued, nor benefited property assessed for benefits conferred until the project has been approved by the fiscal court of the county of the affected district. In the event any benefited property is situated within a city of the first class encompassed by the district, the project shall also be approved by ordinance enacted by the governing body of that city.

SECTION 4. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 76.120 notwithstanding, whenever any district shall determine that it is necessary that any fire plugs, water pipes, mains, and conduits, and other water service related equipment and appliances, belonging to any municipality or a municipally-owned utility, or any water district established pursuant to KRS Chapter 74, must be removed or relocated on, over or under a highway, city street, country road, or other public way, in order to construct, reconstruct, relocate or improve a drainage ditch, storm sewer, sanitary sewer, or any drainage or sewage facility connected therewith, the municipality or municipally-owned utility or the water district shall relocate or remove same in accordance with the reasonable needs of the metropolitan sewer district; and the costs and expenses of such relocation or removal, including the costs of installing such facilities in a new location and the costs of any land, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the district as a part of the cost of improving, constructing or reconstructing such drainage or sewage facilities, provided such additional costs to the district do not result in an increase in the assessment against the benefited properties.

SECTION 5. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

(1) Any metropolitan sewer district which has initiated a wastewater collection project under the provisions of KRS Chapters 76 and 107 may enforce payment of annual improvement benefit assessments levied in respect of such project and may enforce rules and regulations relative to this project by directing the company or governmental unit providing water services to any benefited property to discontinue water services until: (a) the improvement benefits and penalties are duly paid and (b) the regulations and rules shall have been duly complied with and any defaults have been cured. However, a metropolitan sewer district shall indemnify the company or governmental unit providing water services from any liability for damages for terminating water services upon the direction of a district.

(2) Water suppliers shall be entitled to collect from owners of benefited properties a reasonable fee for termination and reinstatement of water services.

(3) It shall be lawful for metropolitan sewer districts initiating wastewater collection projects to covenant with holders of bonds that the district shall enforce the provisions of this section.

(4) Notwithstanding the foregoing provisions of this section, metropolitan sewer districts initiating projects pursuant to KRS Chapters 76 and 107 shall have all powers and rights granted to cities and sewer

bodies by KRS 96.930 through 96.943.

SECTION 6. A NEW SECTION OF KRS CHAPTER 107 IS CREATED TO READ AS FOLLOWS:
There is hereby created in the state treasury a special fund known as the "Kentucky Wastewater Revolving Fund". All moneys deposited or paid into this fund, are available to any metropolitan sewer district to provide solely for the payment of wastewater collection project benefit assessments on single-family tracts, agricultural land and undeveloped land. The fund shall consist of all money appropriated by the state and all money received from the United States, a state, a county, or other local governmental unit, or from any other source for the purpose of deferred assessments on single family tracts, agricultural land and undeveloped land. All moneys in the Wastewater Revolving Fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as are provided by law for other special funds in the treasury, except that any balance in this fund shall not lapse at any time but shall be continuously available to any metropolitan sewer district for the purposes of carrying out the provisions of KRS Chapters 76 and 107.

SECTION 7. A NEW SECTION OF KRS CHAPTER 107 IS CREATED TO READ AS FOLLOWS:
Benefit assessments on single-family tracts, agricultural land, and undeveloped land, as defined in KRS 107.020, shall be the same as for developed land. However, only one unit of assessment shall be charged the owner for each residence upon any single-family tract or agricultural land, provided the remainder of the benefit assessment on single-family tracts, agricultural land and all benefit assessments on undeveloped land are paid from the Kentucky Wastewater Revolving Fund. Such payment must be paid to the district within the 30 day lump sum payment period. Upon development of such property, the owner shall reimburse the "Kentucky Wastewater Revolving Fund" for the amount of the assessment plus accrued interest, if any, and the lien shall then be released.

SECTION 8. A NEW SECTION OF KRS CHAPTER 107 IS CREATED TO READ AS FOLLOWS:
If for any reason any wastewater collection project by any metropolitan sewer district cannot be completed according to the provisions of KRS Chapters 76 and 107, including the ceasing of federal funds, the district shall return in full all lump sum improvement benefit assessments paid by owners of property not benefited. Any interest earned on such payments shall be returned, pro rata, to the owners of such property. The district may then proceed to finance and construct the project in any other manner authorized by law.

SECTION 9. A NEW SECTION OF KRS CHAPTER 107 IS CREATED TO READ AS FOLLOWS:
Any county in which a wastewater collection project is undertaken by a metropolitan sewer district shall create a special fund known as the "Sewer Assessment Hardship Fund". All moneys deposited or paid into this fund are available to any metropolitan sewer district to provide solely for the payment of wastewater collection project benefit assessments for property owners classified as hardship cases as defined by the county.

Section 10. KRS 107.020 is amended to read as follows:

(1) The term "governing body," as used in this chapter, means and includes the legislative body of any city, whether the same be designated by applicable statutes as a general council, a common council, a city council, a board of trustees, a board of commissioners, or otherwise.

(2) The term "ordinance" means and includes any ordinance enacted in accordance with the general laws applicable to ordinances of the class of city in question, and the form of government thereof, and in accordance with the provisions of this chapter.

(3) The term "public way" means and includes streets, boulevards, avenues, roads, lanes, alleys, parkways, courts, terraces, and other courses of travel open to the general public by whatsoever name designated. *As applied to metropolitan sewer districts "public ways" also has the same meaning as used in KRS 93.010(2).*

(4) The terms "improvement" and "project" mean and include:

(a) The construction of public ways or the substantial reconstruction or widening thereof,

(b) The construction, installation or substantial reconstruction of sanitary, storm, or combined sewers and appurtenances,

(c) The construction, enlargement or substantial reconstruction of sewage treatment plants for rendering sewage less hazardous to public health, safety and general welfare,

(d) The construction, installation or substantial replacement of fire hydrants in cities of the third through sixth classes, necessary water mains and appurtenances in a city in a county containing a city of the first or second class, or

(e) Any combination of the same. Bonds for improvements defined in paragraphs (b), (c) and (d) of this subsection may be caused to mature as to principal in term or serial maturities not to exceed thirty (30) years from date of issue, instead of being limited to twenty (20) years from date of issue as otherwise provided in KRS 107.090.

(5) The term "costs" as applied to any project undertaken under this chapter includes the cost of labor, materials, and equipment necessary to complete the project in a satisfactory manner, cost of land acquired, and every expense connected with the project, including preliminary and other surveys, inspections of the work, engineers' fees and costs, attorneys' fees, preparation of plans and specifications, publication of ordinances and notices, interest which will accrue on the bonds until the due date of the first annual improvement assessment levied in connection therewith, a sum equal to any discount in the sale of the bonds (if discount bids are authorized and permitted by the governing body), a reasonable allowance for unforeseen contingencies, the printing of bonds, and other costs of financing which may include the payment of a fee to a fiscal agent for advice and assistance in the preparation and marketing of the bonds. *As applied to wastewater collection projects undertaken by metropolitan sewer districts "costs" also include: (a) the cost of inspections of work as construction progresses, (b) interest which will accrue on the bonds until the due date of the first annual improvement assessment if a lump sum is not paid, (c) capitalized interest on the bonds for a period not to exceed three years, (d) all or any portion of the debt service reserve requirement, if determination is made to finance same from bond proceeds (e) payment of attorneys' fees, underwriting and fiscal agency fees, trustees' fees, rating service fees if approved by the fiscal court and (f) other costs of issuance of bonds.*

(6) The term "assessed value basis" means the plan for the levying of annual improvement benefit assessments on the basis of the assessed values of the benefited properties, as authorized by this chapter. *As applied to wastewater collection projects undertaken by metropolitan sewer districts, "assessed value basis" means the plan for the levying of annual improvement benefit assessments upon benefited property for the benefits conferred by the construction of projects on the basis of the ad valorem assessed values (land only) of the benefited property, whether the owners pay such levies in full or on an annual basis to amortize bonds. Identical annual improvement benefit assessments upon classified zones of benefited property may also be included in this plan where determination is made by order of a metropolitan sewer district, as provided in this Act, that benefits conferred by construction of a project are substantially equal and that the assessed value (land only) of all benefited property or designated zones thereof shall therefore be deemed equal in respect of a given wastewater collection project.*

(7) The term "front-foot basis" refers to the plan for financing improvements by apportioning the cost among benefited properties upon the basis of the number of linear feet thereof abutting upon the improvement project, as otherwise provided by law.

(8) The terms "property to be benefited," "properties to be benefited," "benefited property" and "benefited properties" all mean and refer to the property or properties defined in KRS 107.140. *As applied to wastewater collection projects undertaken by metropolitan sewer districts, "benefited property" and "property to be benefited" mean the property (land only) proposed to be benefited by construction of a wastewater collection project instituted by a metropolitan sewer district and against which lump sum or annual improvement benefit assessments are to be levied.*

(9) "Construction" means the following services and facilities provided by a metropolitan sewer district:

(a) Preliminary planning to determine the economic and engineering feasibility of construction of wastewater collection projects, and any engineering, architectural, legal, fiscal, and economic investigations and studies necessary. Also included are all necessary surveys, designs, plans, working drawings, specifications, procedures, and other required actions incident to the construction of wastewater collection projects;

(b) The building, acquisition, installation, erection, alteration, remodeling, improvement, expansion, or extension of wastewater collection projects and any other physical devices reasonably associated with such projects;

(c) The provision of sewer collection services and facilities to benefited property although not directly financed by the issuance of bonds; and

(d) Inspection and supervision incident to the acquisition, construction, and installation of wastewater collection projects.

(10) "Debt service reserve requirement" means with respect to any particular issue of bonds for a wastewater collection project of a metropolitan sewer district, the maximum annual requirements for payment of principal of and interest on such bond issue funded either in whole or in part by application of bond proceeds or accrued by the levying of improvement benefit assessments as provided in KRS Chapters 76 and 107.

(11) "Metropolitan sewer district" means a joint metropolitan sewer district which has been duly created under KRS 76.005 to 76.210.

(12) "Order" means a formal and binding enactment of the board of a metropolitan sewer district entered in connection with the financing by such district of a wastewater collection project.

(13) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants.

(14) "Wastewater collection project" means treatment plants and all or part of any facilities and systems of a metropolitan sewer district used in the collection, holding, or transmission of wastewater from a

benefited property to wastewater treatment plants or other similar facilities for final disposition. These terms shall include, without being limited to, sanitary sewage collection lines, intercepting sewers, outfall sewers, sewer laterals, power stations and pumping stations, and other equipment and their appurtenances necessary to enable the project to fulfill its function, including land acquisition, if required, whether such project facilities are provided by funds derived from issuance of bonds or otherwise provided by a district in any manner.

(15) "Classified zone" means any portion of any construction phase of a wastewater collection project designated by a metropolitan sewer district after a determination that all property located in such zone is benefited substantially equally by such construction.

(16) "Agricultural land" means a tract of land containing a residence within a wastewater collection project of a metropolitan sewer district of contiguous acreage for the production of agricultural or horticultural crops, including but not limited to livestock products, poultry, poultry products, grain, soybeans, tobacco, timber, orchards, fruits, vegetables, flowers or ornamental plants, where such activities produced an average gross income of at least $1,000 per year during the preceding two years.

(17) "Undeveloped land" means a tract of land within a wastewater collection project of a metropolitan sewer district which contains no temporary or permanent residence.

(18) "Single-family tract" means a tract of land within a wastewater collection project of a metropolitan sewer district which contains no more than one temporary or permanent residence.

Section 11. KRS 107.030 is amended to read as follows:

If a municipality desires to authorize, construct, and finance an improvement pursuant to this chapter, its governing body shall initiate the proceedings by adopting an ordinance, herein called the "First Ordinance," in which announcement shall be made of the public way or ways (which need not be contiguous) proposed to be improved and the geographical limits of the proposed improvement in such manner as to identify the benefited properties or the identity of the property or properties to be benefited by the fire hydrant in cities of the third through sixth classes or by the sewer installations (which may include a sewage treatment plant) which properties may be identified by naming the public way or ways upon which they abut, if any, or by geographical location, or both. In either case the ordinance shall recite the nature and scope of the improvement, a preliminary estimate of the costs thereof, as submitted in writing by an engineer, or firm of engineers, holding a license from the Commonwealth of Kentucky, and the amount, if any, which the city proposes to appropriate from available city funds toward the estimated cost. *Any metropolitan sewer district desiring to initiate a wastewater collection project pursuant to this chapter shall, by order of its board cause a written preliminary engineering and financing report to be prepared by one or more engineers, or one or more firms of engineers, licensed to do business in the Commonwealth of Kentucky, or alternatively, by district personnel, for submission to the district. The preliminary engineering and financing report shall designate a geographical area in which a wastewater collection project is recommended for construction. The report shall contain a reasonable description of the project facilities proposed to be constructed, a statement as to benefits to be conferred by the proposed project, the distribution of the benefits and an estimate of the cost of the proposed project. The board of the district shall receive the preliminary engineering and financing report at a regular meeting. The board shall study and evaluate it, and by duly entered order either approve, disapprove the report as submitted, or amend and approve the report. Following approval of the preliminary engineering and financing report by the board of the metropolitan sewer district, the board shall formally initiate proceedings for the construction and financing of the proposed wastewater collection project. This announcement shall identify all benefited properties by naming the public way upon which such benefited properties abut, if any, or by geographical location, or by other appropriate description. The first ordinance shall describe the nature, scope and preliminary cost estimate of the wastewater collection project being proposed. The ordinance shall determine that each parcel of land identified as benefited property shall be afforded benefits by the projects unless specifically excluded. A public hearing shall be held in respect of the proposed wastewater collection project.* In all succeeding proceedings, the city shall be bound and limited by the preliminary report of the engineer, or engineers, with regard to the nature, scope, and extent of the proposed improvement project (unless the First Ordinance be amended, as hereinafter provided); but shall not be bound by, or limited to, the preliminary estimate of costs. The costs shall be determined upon the basis of construction bids publicly solicited as hereinafter provided, and shall be binding upon the city, and upon the owners of property to be benefited by the proposed improvement project, whether the same turn out to be equal to, below, or above such preliminary estimate. Architects, *attorneys, consultants,* engineers, and fiscal agents *shall* [may] be employed *after reasonable advertisement of the need for their services and with such competition as is permitted by law* [without advertising or competition]. *In a first ordinance for a wastewater collection project, the board of a metropolitan sewer district shall make findings of fact regarding the degree and nature of the benefit which will accrue to benefited properties by the installation of the project. If the board determines as a fact that groups of or all of the benefited properties will be affected and benefited in substantially the same manner and to substantially the same degree, the board may classify such benefited properties into one or more assessment zones based upon the similarity of benefits to be derived. In such case,* *the board may deem all benefited properties within a particular assessment zone to be equally benefited and therefore equally treated for purposes of levying improvement benefit assessments for amortization of bonds issued to provide funds to pay the costs of the project. It is the intent of KRS Chapters 76 and 107 to vest in the board of any metropolitan sewer district undertaking a project authority to make findings of fact in order to classify properties according to benefits conferred from the construction of projects. The board may, by appropriate order, determine that identified groups of benefited properties will be benefited in substantially the same manner by a project and these properties shall be treated equally for purposes of annual improvement benefit assessment of such benefited properties. The board may rely upon any pertinent data in making such findings of fact, including the size and diameter of sanitary sewer service connections to be made available. If the board of the district determines that all properties situated within a particularly described geographic area will not receive substantially equal benefits from the project, the board shall determine in the first ordinance that such properties shall be annually assessed for benefits conferred based upon the relative assessed land valuation of each benefited property as it relates to the aggregated assessed land valuation of all benefited properties within such particularly described geographic area. Whichever basis of assessment is selected, it shall be used both initially, when land owners may pay improvement benefit assessments in a lump sum, and subsequently during each annual period in which project bonds are outstanding if a lump sum payment is not paid.* The First Ordinance shall provide for a public hearing at a time and place specified therein (not less than one (1) week after publication) and shall give notice that at the hearing any owner of property to be benefited may appear and be heard as to:

(1) Whether the proposed project should be undertaken or abandoned,

(2) Whether the nature and scope of the project shall be altered,

(3) Whether the project shall be financed through the issuance of bonds according to the "assessed value basis," authorized by this chapter, or

(4) Whether the project shall be financed through assessments made and apportioned on a front-foot basis, as may otherwise be authorized by law. The First Ordinance shall be published pursuant to KRS chapter 424. The First Ordinance may designate a person, who may be the mayor (or the chairman of the board of trustees), a member of the governing body, or any city official, to preside at and conduct such public hearing. In the absence of a designation in the ordinance, the mayor, chairman of the board of trustees, or a person designated by the mayor or chairman shall preside. Notwithstanding the foregoing, the public hearing shall not be deemed irregular or improper if it is in fact presided over and conducted at the designated time and place by any elected city officer or member of the governing body.

Section 12. KRS 107.040 is amended to read as follows:

A public hearing shall be held at the time and place designated in the First Ordinance. Any person qualifying under the provisions of KRS 107.030 may preside and conduct such hearing. Such presiding person, or any person whom he or she may designate, shall make reasonable notes or minutes of the proceedings, and the same shall be submitted in writing to a subsequent regularly scheduled meeting of the governing body. Any owner of property intended to be benefited by the proposed improvement project may be heard at such public hearing, in person or by a representative. Any such owner may submit to the person presiding, or to the designated clerk, if one (1) be designated, a written instrument in which such owner is identified by name, address, and designation of the property owned, and containing a statement of any reason for advocating, or objecting to, any of the aspects of the proposed improvement project as set forth in subsection (1), (2), (3), or (4) of KRS 107.030, and such written instruments shall be attached to, or included in, the written report of the hearing. Whether or not any such written instruments are submitted, the person presiding at such hearing may require those in attendance to identify themselves as owners of property to be benefited, or otherwise, and may call for a vote of such identified owners, by secret ballot or show-of-hands, on any pertinent controversial matter, and the results thereof shall be included in the subsequent written report to the governing body. *The presiding officer may impose reasonable rules upon the conduct of the public hearing. Reports of local health agencies, summaries, engineering and health reports and other informative data may be made a part of the public hearing.* The hearing may be adjourned to convene again, and from time to time, either at a time and place announced at the hearing, or any adjourned session, or upon public notice of such time and place, to be given in such manner as the person presiding may announce prior to the adjournment. If no owners of property to be benefited by the proposed project appear at such hearing, or if no substantial controversy develops at such hearing, regarding any of the matters enumerated in subsection (1), (2), (3), or (4) of KRS 107.030, the hearing may be adjourned sine die by the person presiding, and such facts shall be set forth in the written report to the governing body.

Section 13. KRS 107.050 is amended to read as follows:

(1) At a subsequent regular meeting of the governing body, the said written report of said public hearing shall be publicly received, read, and considered by the governing body of the city. At such meeting, or at any subsequent properly convened regular, adjourned or special meeting, owners of properties to be

benefited may again be heard, in person or by a representative, and the governing body may adopt an ordinance (hereinafter referred to as the "Second Ordinance"), which may provide for (a) abandonment of the project, or (b) the undertaking of the proposed project, with provision for the financing thereof according to the "assessed value basis" set forth in this chapter, or (c) the undertaking of the project, with provision for the financing thereof according to any other method which may be permitted by law, or (d) altering the nature and scope of the proposed project, in which event the procedure for public hearing and a further report shall be repeated according to the preceding provisions of this chapter. If the governing body shall determine that the owners of more than fifty per cent (50%), both in number of lots or parcels and in aggregate assessed value of the properties to be benefited by the project, object to the financing thereof through annual assessments levied upon the "assessed value basis," as authorized in this chapter, the governing body may enact the Second Ordinance only upon the affirmative vote of members constituting not less than three-fifths (3/5) of the membership of the governing body, the names of the members so voting to be recorded in the minutes of the meeting whether or not there be any other requirement of such procedure in any other law applicable to the class of city in question. The Second Ordinance shall be published as provided in this chapter with respect to publication of the First Ordinance.

(2) Before the second ordinance for a wastewater collection project adopted by the board of a metropolitan sewer district shall become effective, the following shall take place: (a) if the benefited property is situated outside a city of the first class, the second ordinance shall also be adopted by appropriate ordinance or resolution of the fiscal court of the county in which the district is situated, or (b) if the benefited property is situated within a city of the first class, the second ordinance shall be adopted by an appropriate ordinance of the board of aldermen of that city.

Section 14. KRS 107.070 is amended to read as follows:

(1) If the aforesaid Second Ordinance authorizes the undertaking of the proposed project and the financing thereof according to the "assessed value basis," which is authorized by this chapter, and if owners of benefited properties do not take action as permitted by KRS 107.060, or if such action be taken and shall result in final judgment permitting the city to proceed according to the First and Second Ordinances, the governing body of the city may proceed as authorized in this chapter.

(2) If the second ordinance of a wastewater collection project undertaken by a metropolitan sewer district authorizes the undertaking and financing of the project according to the first ordinance, and if no action is initiated as permitted in KRS 107.060, or if such action be taken and shall result in final judgment allowing the second ordinance to stand the board of the district may implement and finance construction of the project as authorized by this chapter.

Section 15. KRS 107.080 is amended to read as follows:

(1) Proposals for the construction of the project shall be solicited upon the basis of the submission of sealed competitive bids after advertisement, by publication pursuant to KRS chapter 424. Upon or after the acceptance by the governing body of a bid, or combination of bids, the governing body may determine the principal amount of bonds to be issued for the proposed project, taking into account the amount of the accepted bid or bids, and all other costs of the project, as herein defined. Each contract shall be supported by a performance bond for the full amount thereof, with good surety to be approved by the governing body. *In the construction of a wastewater collection project by a metropolitan sewer district, if the provisions of KRS 107.070 are met, proposals for the construction of the project shall be solicited upon the basis of submission of sealed, competitive bids after advertisement by publication pursuant to KRS Chapter 424. The district may authorize assessment levies, lump sum payments and issuance of bonds for a project based upon estimates of construction costs or based upon partial bidding, if a determination is made that the entire project may not be feasibly bid for construction prior to authorization and issuance of bonds. Notwithstanding the foregoing, the project shall be constructed only upon or after the acceptance by the board of a competitive bid or a combination of competitive bids for construction of the project. Each contract for construction shall be supported by a performance bond for the full amount with good corporate surety to be approved by the board of the district.*

(2) After all costs of a wastewater collection project undertaken by a metropolitan sewer district have been determined in accordance with this section the costs shall be apportioned among the owners of benefited property by the method of assessment previously determined in the first ordinance and the second ordinance. However, in determining the apportionment of individual costs for purposes of allowing the owners of benefited property the privilege of paying such assessment levied in full on a lump sum basis, the district shall exclude amounts required for the creation of the debt service reserve fund, capitalized interest cost, and any bond discount which the district may allow in connection with the sale of bonds to provide funds for the cost of construction not paid initially by the owners of benefited properties on a lump sum basis. In calculating the assessment amount to be paid by a property owner on a lump sum basis, the district shall take into account the amount of interest the lump sum payment may accrue in the trust account required by subsection (4) of

this section between the time of the owner's payment and the time the construction of the collector portion of the project is completed and ready for use by the assessed property and shall reduce the amount of the lump sum payment accordingly.

(3) The owners of benefited property in wastewater collection projects undertaken by a metropolitan sewer district shall be notified in writing of the exact amount levied by the district against their individual properties. Owners may pay the amount levied in full within thirty (30) days. Owners shall be notified that if the costs of construction of the original project exceed assessments financed by both lump sum payments and bond proceeds, additional assessments of costs will be made and that all owners who paid the initial improvement benefit assessment on a lum sum basis must likewise pay any additional assessment on such basis. The statement shall also advise the owners that if the owners do not elect to pay the special improvement benefit assessment in full within the period of thirty (30) days from receipt, the district shall issue bonds pursuant to KRS Chapters 76 and 107 for the purpose of providing the costs of construciton of the project, including the debt service reserve fund, if paid from bond proceeds, capitalized interest costs, any bond discount, together with all other costs, as such term is defined in KRS Chapters 76 and 107. The owners of benefited property shall also be advised that such bonds and their interest shall be amortized by annual improvement benefit assessment levied against all benefited properties, for which lump sum payments have not been paid, in accordance with the method of apportionment provided by the first ordinance and the second ordinance.

(4) At the conclusion of the thirty (30) days permissive lump sum payment period, the district board in wastewater collection projects shall determine the aggregate principal amount of assessments paid in full by owners of benefited properties and shall deposit these monies in a trust account to be used solely to pay the costs of construction of the project. These monies shall not be disbursed until bond proceeds are available. The district board shall aggregate all unpaid improvement benefit assessments for the purposes of determining the principal amount of bonds to be issued by such district to provide the remaining costs of the project. The district board also: (a) shall compute the debt service reserve fund in respect of such bonds, if such fund is to be capitalized from bond proceeds; (b) shall determine the bond discount and capitalized interest which shall be applicable to the issue of bonds; and (c) shall proceed to complete the financing of the costs of construction of the project through the adoption of the third ordinance as provided in KRS 107.090 and the sale of bonds authorized pursuant thereto. If, by reason of miscalculation or unforeseen events, the proceeds of the bonds authorized plus lump sum payments previously collected should prove to be insufficient to provide for the completion of the project and full payment of all costs, the district shall be required to levy pro rata an additional assessment on owners of all benefited properties. The district shall collect sufficient additional lump sum payments and shall issue and sell sufficient additional bonds to make up the deficiency. Any such additional bonds shall rank on a parity as to security and source of payment with the bonds originally authorized.

Section 16. KRS 107.090 is amended to read as follows:

(1) Upon compliance with KRS 107.080 the governing body may adopt an ordinance, hereinafter referred to as the "Third Ordinance":

(a) Finally authorizing the issuance of bonds of the city which shall be designated "Improvement Assessment Bonds" and shall, in addition, identify the project by name of streets, number, or otherwise;

(b) Determining the principal amount thereof;

(c) Establishing the denominations and maturity dates thereof, which may be term or serial maturities, not to exceed *thirty (30)* [twenty (20)] years from date of issue;

(d) Levying an annual assessment effective only upon the benefited properties, according to their respective assessed values as determined for the purposes of general city taxation, but without regard to any constitutional or other limits otherwise applicable to taxation for general city purposes, the annual rate of such improvement assessment to be fixed when city taxes are levied, and to be sufficient in each year to provide for the payment of such bonds and interest coupons as they mature; and, in the case of the first such levy, sufficient to provide, in addition, a sum equal to 20 per cent of average annual principal and interest requirements, the same to constitute a "debt service reserve" as a precaution against possible default by reason of failures in the collection of the annual levies, as hereinafter provided;

(e) Covenanting with the holders of said bonds and coupons, that until the payment in full thereof the city will levy annually an improvement assessment upon the benefited properties only, as provided in the foregoing subsection (d) hereof;

(f) Covenanting with the holders of said bonds and coupons, that until payment in full thereof, the city will pursue and exhaust, at the city's expense, all remedies available to the city and for the benefit and protection of the bondholders, including enforcement to judgment and decretal sale of the liens upon benefited properties, as provided in this chapter;

(g) Designating one or more places of payment of principal and interest, within or without the Commonwealth;

(h) Specifying, or omitting, provisions for redemption and payment prior to stated maturities, and the terms thereof;

(i) Providing for the payment by the city of any and all reasonable and customary charges for the services of paying agents, to the end that the holders of the bonds and coupons will receive the sums therein stipulated, without deductions for such charges; and

(j) Any other provisions not contrary to law.

(2) Following compliance with the foregoing provisions of KRS Chapter 107 for a wastewater collection project undertaken by a metropolitan sewer district, the board of the district may adopt a third ordinance which shall make those provisions set forth in this subsection.

(a) The third ordinance shall determine and confirm: 1. the nature and scope of a project, 2. the real properties to be benefited, which shall be all benefited properties identified in the first ordinance and the second ordinance, excepting properties for which lump sum payment of improvement benefit assessment levies had been made within the statutory period, 3. the exact method of assessment of the benefited properties, and 4. the costs of the project.

(b) The third ordinance shall authorize the issuance of bonds of the district periodically. The bonds shall be designated "improvement lien bonds" and shall additionally identify the project by reference to its name or title.

(c) The third ordinance shall determine the principal amount of the bond issue, subject to the provisions of KRS 107.210.

(d) The third ordinance shall establish the denominations and maturity dates of the bonds. The bonds may be term or serial maturities not to exceed thirty (30) years from date of issue, and may provide for the issuance of the bonds in series, each such series to be equally secured without preference as to bondholders by improvement benefit assessments levied on all benefited properties and by liens in respect thereto.

(e) The third ordinance shall levy an annual improvement benefit assessment on the benefited properties, for which lump sum payments were not made, pursuant to the assessed value basis according to either: 1. their respective assessed land values as determined for purposes of general ad valorem taxation, or 2. Upon a basis of equality by zones, pursuant to findings of fact by the board that benefited properties in particular zone classifications are to be treated equally for assessment purposes because of substantial equality of benefits conferred. The assessments may be made without regard to any constitutional or other limits otherwise applicable to taxation for general ad valorem purposes. The annual rate of the improvement assessment shall be fixed when regular county ad valorem taxes are levied and shall be sufficient in each year to provide for the payment of the bonds and interest coupons as they mature. In each year, until accrual of the debt service reserve requirement, the annual rate shall be sufficiently large to provide an additional sum equal to twenty percent (20%) of maximum principal and interest requirement, which additional sum shall constitute a debt service reserve fund as a precaution against possible default by reason of failures in the collection of the annual levies; provided, however, that if the district shall have provided by the third ordinance that the debt service reserve requirement be financed from bond proceeds as one of the costs of the project, the additional annual benefit assessment shall be omitted, but additional levies shall promptly be instituted at any time necessary to maintain the debt service reserve requirement at its prescribed level.

(f) The third ordinance shall covenant with the holders of the bonds and coupons that until their payment in full, the district shall levy annually an improvement benefit assessment upon each and every benefited property, as provided in subsection (2)(e) of this section; provided, however, the district may provide by order that certain benefited properties be omitted from assessment during initial periods not to exceed three (3) years because of construction scheduling.

(g) The third ordinance shall covenant with the holders of the bonds and coupons that until payment in full, the district shall pursue and exhaust at the district's expense all remedies available to the district for the benefit and protection of the bondholders. These remedies include both termination of water service to delinquent real properties and enforcement to judgment and sale of the liens upon benefited properties which are granted by this chapter.

(h) The third ordinance shall designate one or more places of payment of principal and interest within or without the Commonwealth.

(i) The third ordinance shall specify or omit provisions for redemption and payment prior to stated maturities and the terms thereof.

(j) The third ordinance shall provide for the payment by the district of all reasonable and customary charges for the services of trustees and paying agents to the end that the holders of the bonds and coupons will receive the sums stipulated without deduction for such charges; and

(k) The third ordinance may contain any other provisions not contrary to law. The district is expressly empowered to finance any particular project by an issue of bonds which may be sold and delivered in one or more series. Each series shall be equally and indistinguishably secured, as provided in KRS Chapters 76 and 107, by improvement benefit assessments levied upon all benefited properties and by liens granted for the security of bondholders by KRS Chapters 76 and 107 on benefited properties. The assessments and liens shall

apply to each benefited property and in favor of each bond of each series whenever issued.

(3) In the discretion of the board of a metropolitan sewer district relating to a wastewater collection project, any improvement lien bonds or bond anticipation notes issued under KRS Chapters 76 and 107 may be secured by a trust indenture between the district and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth of Kentucky. The trust indenture may pledge or assign for the security of the improvement lien bonds or notes all or any part of the proceeds of improvement benefit assessments received by the district. The trust indenture shall contain any provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable, proper and not in violation of law, including: (a) covenants setting forth the duties of the district in relation to the purposes to which improvement lien bond proceeds may be applied; (b) the disposition and pledging of receipts of improvement benefit assessments; and (c) the custody, safeguarding and application of all improvement benefit assessment revenues. It shall be lawful for any Kentucky bank or trust company acting as depository of the proceeds of bonds, notes or district revenues, to furnish indemnity bonds or to pledge securities as required by the trust indenture of the district. Any trust indenture may set forth the rights and remedies of the bondholders and indenture trustee and it may restrict the individual right of action by bondholders. In addition, any trust indenture may contain such other provisions as the district may determine to be reasonable for the further security of the holders of the bonds. All expenses of the trust indenture shall be treated as a part of the costs of the project and shall be paid from either the proceeds of the bonds or improvement benefit assessments.

(4) All bonds issued by metropolitan sewer districts under the provisions of KRS Chapters 76 and 107 shall possess all of the qualities and incidences of negotiable instruments under the laws of Kentucky. The bonds may be issued in coupon or in registered form or in both. Provision also may be made for the registration of any coupon bonds as to principal only and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The district shall sell the bonds at public sale at a price that will best effect the purposes of KRS Chapters 76 and 107.

(5) Any metropolitan sewer district initiating a wastewater collection project pursuant to Chapters 76 and 107 shall have and possess all powers and the authority set forth in KRS 58.150

(6) No benefit assessment bonds shall be sold without competitive bidding.

Section 17. KRS 107.110 is amended to read as follows:

When the bonds are delivered and the proceeds are received by the city, the same shall be deposited in a bank or trust company, or combined bank and trust company, *together with the proceeds of all payments received from benefited property owners on a lump sum basis,* and to the extent such deposit may exceed insurance provided by federal deposit insurance corporation, (if the depository be a member thereof, otherwise the full amount), the same shall be secured by a valid pledge of bonds or notes of the United States government, or fully guaranteed thereby, having at all times a market value equal to the undisbursed balance of such deposit; or shall be secured in such other manner as the governing body may prescribe or approve. Costs of the project which may then be earned and payable, may be paid forthwith. There shall be set aside into the sinking fund, hereinafter created, a sum from bond proceeds equal to all interest which will accrue on said bonds until the date when the first improvement assessment levied in connection therewith will become due and payable. The remainder may be disbursed from time to time in payment of costs of the project, as herein defined, except that payments on account of the construction contracts shall not exceed ninety per cent (90%) of the amount shown by a written certificate of the engineer to have been earned for materials furnished and/or labor performed by any contractor, the retained ten per cent (10%) to be disbursed only upon final acceptance of the finished work of such contractor. If, after completion, acceptance and payment of the work of all contractors, and the payment of all costs of the improvement project, as herein defined, there shall remain an unexpended balance of bond proceeds, such balance shall be transferred to the sinking fund created and maintained in connection with the project, as provided in this chapter. *If, after completion, there remains any unexpended balance of lump sum payments, it shall be returned, pro rata, to the payors.*

Section 18. KRS 107.120 is amended to read as follows:

Each of said bonds shall bear on its face the statement that it has been issued under this chapter, and that it does not constitute an indebtedness of the city within the meaning of the constitution. The bonds, and the receipt of interest thereon, shall not be subject to taxation. The bonds shall have all the qualities and incidents of negotiable instruments. The bonds, and the interest thereon, shall be payable exclusively from the proceeds of the annual improvement assessments levied from time to time upon the properties benefited by the project identified in the bonds *and from the debt service reserve fund*; but the city shall become directly and personally liable to the bondholders for any deficiencies which may arise from its failure to pursue to exhaustion, and in timely fashion, all remedies lawfully available in the collection of such improvement assessments.

Section 19. KRS 107.130 is amended to read as follows:

The sum required annually for the sinking fund and consequent amortization of the outstanding bonds of a wastewater collection project undertaken by a metropolitan sewer district, whether all authorized bonds have been issued or not, shall be assessed against the benefited properties for benefits conferred. The sum shall include any amounts required annually to pay trustees' fees, paying agents' fees, cost of administration of the wastewater collection project, and the cost of billing, collecting and enforcing improvement benefit assessments, including fees of proper governmental bodies incident to placing assessment bills on tax statements, and collecting, enforcing and remitting same. If the board of a metropolitan sewer district in relation to a wastewater collection project has determined that all benefited properties within classified zones are substantially equally benefited, the same assessment levy shall be made against each benefited property within a classified zone. Otherwise the sum required to be raised annually for the sinking fund shall be assessed against the property benefited in the proportion that the assessed value of each lot or parcel for city taxation shall bear to the whole assessed value of the benefited properties, as shown by the records upon which city taxation may, from time to time, be based. Where there is no such record, as in the case of public property, or property owned by religious, charitable, or educational institutions, the same (except that owned by the United States Government) shall be specially assessed by the proper assessing officers, and for such special assessment reasonable compensation may be made. Any such special assessment shall be subject to all procedures for equalization and judicial review as may be provided by law in connection with ordinary assessments.

Section 20. KRS 107.140 is amended to read as follows:

(1)(a) In the case of improvements of public ways, the benefited property shall consist of all real property abutting upon both sides of the improvement project, and the cost of improving intersections shall be included in the total costs to be assessed and apportioned, unless and to the extent the city shall appropriate, within constitutional limitations, from available funds, definite and specified sum as a contribution thereto, or a portion of the aggregate cost, or the cost of specified portions of the improvement; Provided, however, That if provisions shall be made for sidewalk improvements, as an integral part of the improvement of a "public way," as defined in subsection (3) of KRS 107.020, upon only one side of the project, the costs of the sidewalk improvement shall be ascertained and assessed separately against the property abutting upon that side only, but the governing body may provide that such assessment shall include a fair share of the over-all costs as herein defined, other than the amounts of the actual construction contracts.

(b) In the case of improvements for draining sewage, storm water, or a combination thereof, the benefited properties shall consist of all properties which are thereby afforded a means of drainage, including not only the properties which may be contiguous to the improvements, but also adjacent properties within a reasonable distance therefrom as the governing body may in the proceedings set forth.

(c) In the case of an improvement project consisting in whole or in part of a sewage treatment plant, or enlargement or substantial reconstruction of an existing sewage treatment plant, the benefited properties shall be all those properties the sewage from which is treated in such plant, including properties already provided with sewer drainage facilities as well as those properties which the improvement project will provide with such drainage facilities, but the governing body may classify properties according to the extent of benefits to be afforded to them, and may establish one (1) rate of assessment applicable to all properties participating in the benefits of the sewage treatment installations, and an additional rate of assessment applicable to properties for which the improvement project will also provide sewer drainage facilities. *In relation to wastewater collection projects constructed by metropolitan sewer districts, benefited property shall consist of all property whether improved or unimproved to which the project affords a means of discharging wastewater.*

(d) The governing body may, either in the proceedings initiating an improvement project, or in subsequent proceedings, recognize the necessity or desirability in the interest of the public health, safety and general welfare, that properties other than the properties originally benefited by an improvement under paragraphs (b) or (c) of this subsection, be permitted to connect to such sewer drainage and/or treatment facilities, and may make equitable provisions which may be adjustable from year to year as bonds are retired, whereby the owners of such later-connecting properties, may, by paying charges for the privilege of connecting, and/or by assuming a share of improvement assessments, or otherwise, be placed as nearly as practicable on a basis of financial equity with the owners of properties initially provided to be assessed.

(e) The governing body may, either in the proceedings initiating an improvement project, or in subsequent proceedings, recognize the necessity or desirability in the interest of the public health, safety and general welfare that residential properties within one thousand feet (1000'), measured along paved roads, of a fire hydrant in cities of the third through sixth classes may be assessed on the same basis as property abutting upon a street where a fire hydrant is to be installed.

(2)(a) Benefited property owned by the city or county, or owned by the United States government or any of its agencies, if such property is subject to assessment by act of congress, shall be assessed annually the same as private property, and the amount of the annual assessment shall be paid by the city, county, or United States government, as the case may be. The same right of action shall lie against the county as against a private owner.

(b) Benefited property owned by the state, except property the title to which is vested in the Commonwealth for the benefit of a district board of education pursuant to KRS 162.010, shall be assessed as follows: Before assessing the state, the governing body shall serve written notice on the commissioner of finance setting forth specific details including the estimated total amount of any improvement assessment proposed to be levied against any state property relative to any proposed improvement project. Said written notice shall be served prior to the next regular session of the general assembly so that the amount of any specific improvement assessment may be included in the biennial budget report to be submitted to the general assembly. Payment of any assessment shall be made only from funds specifically appropriated for that assessment. If an amount sufficient to pay the total amount of any assessment has been appropriated, then the total amount shall be paid; if an amount sufficient only to pay annual assessments has been appropriated, then only the amount of the annual assessment shall be paid. The amount of the assessment shall be certified by the city treasurer to the executive department for finance and administration, which shall thereupon draw a warrant upon the state treasurer, payable to the city treasurer, and the state treasurer shall pay the same.

(c) In the case of property the title to which is vested in the Commonwealth for the benefit of a district board of education, the amount of the annual assessment shall be paid by the city or other local governmental agency or authority which undertook the improvement project.

(3) No benefited property shall be exempt from assessment.

Section 21. KRS 107.150 is amended to read as follows:

The annual improvement assessment for each project shall be levied by the governing body when the levy for general city *or county* taxes *are* [is] made; and such improvement assessment levy shall be due at the same time, or times, when the general city *or county* taxes are due, and shall be subject to the same penalties and accrual of interest in the event of nonpayment as in the case of such general city *or county* taxes. *The improvement benefit assessments for a wastewater collection system undertaken by a metropolitan sewer district shall be collected by the county officer charged with responsibility for the collection of ad valorem county taxes and shall be enforced in like manner.*

Section 22. KRS 107.160 is amended to read as follows:

Each annual improvement assessment, *including an initial levy payable on a lump sum or cash basis,* with any penalty or interest incident to the nonpayment thereof, shall constitute a lien upon the lot or parcel of benefited property against which it is assessed. The lien shall attach to each lot or parcel of benefited property as the same is described by the owner's deed of record in the county court clerk's office at the time of the publication of the First Ordinance, as herein provided, and thereupon shall take precedence over all other liens, whether created prior to or subsequent to the publication of said ordinance, except state and county taxes, general municipal taxes, and prior improvement taxes and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the governing body shall exempt any benefited property from the lien for the improvement assessment, or from the payment thereof, or from the penalties or interest thereon, as herein provided. No error in the proceedings of the governing body shall exempt any property from liability for payment of any annual improvement assessment, or for any interest or penalty incident to nonpayment thereof. The city's governing body, or any court of competent jurisdiction, shall have power to make such rules and orders as may be required to do justice to all parties.

Section 23. KRS 107.180 is amended to read as follows:

All sums received and deposited in the sinking fund shall be held inviolate and applied by the city solely for the payment of the principal of, and interest on, the bonds issued for the financing of the identified improvement project. The amount collected, and deposited in the sinking fund from the first improvement assessment levied in connection with any project, in excess of maturing principal and interest of the bonds, and for the purpose of creating a "debt service reserve," shall be held in the sinking fund for that purpose. If the collections from the first annual improvement assessment levy shall fail to produce a sum sufficient to provide a "debt service reserve" equal to twenty per cent (20%) of future average annual principal and interest requirements, the next annual improvement assessment shall be fixed at such level as may be calculated to restore the "debt service reserve" to such level after providing for current principal and interest maturities. *The debt service reserve requirement of a wastewater collection project by a metropolitan sewer district may be funded from the proceeds of the bonds.* If, at the time of any annual levy of the improvement assessment, the sum held in the sinking fund as said "debt service reserve" shall exceed the level herein specified, such excess may be taken into account in fixing the rate of the improvement assessment for the ensuing year; and if the amount so held in said "debt service reserve" is below said specified level, the next annual improvement assessment levy shall be increased in a corresponding manner. In making the improvement assessment levy for the year preceding the final maturity of bonds for any improvement project, the governing body may take into account, and make allowance for, the amount held in the sinking fund of the particular project as a "debt service reserve"; and if in making such levy the governing body shall miscalculate and provide funds insufficient to pay the final maturing principal and interest, the governing body shall be authorized to, and shall be required, to make a subsequent improvement assessment levy upon the benefited properties sufficient to make up the deficiency, with interest to date of payment. If the procedures required by this chapter shall result in a surplus after payment of the bonds, and all interest thereon to date of payment, such surplus shall be refunded, pro rata, to the owners of benefited properties, as determined at the date such surplus is ascertained by the governing body to exist.

Section 24. KRS 107.210 is amended to read as follows:

If, by reason of miscalculation or the happening of unforeseen events or conditions, the proceeds of the bonds authorized by the Third Ordinance should prove to be insufficient to provide for the completion of the project and the payment in full of all costs thereof, the governing body shall be authorized to issue and sell additional bonds sufficient to make up the deficiency, and such additional bonds shall rank on a parity as to security and source of payment with the bonds originally authorized. *In the case of wastewater collection projects, the metropolitan sewer district shall be required to levy pro rata an additional assessment on owners of benefited property who have elected to make lump sum payments in full.*

Section 25. KRS 76.090 is amended to read as follows:

(1) The district may establish a schedule of rates, rentals, and charges, to be collected from all the real property within the district area served by the facilities of the district, and prescribe the manner in which and the time at which the rates, rentals, and charges are to be paid, and may change the schedule from time to time as the district deems necessary, advisable or expedient. The schedule may be based upon either, (a) the consumption of water on premises connected with the facilities, taking into consideration commercial and industrial use of water; or (b) the number and kind of plumbing fixtures connected with the facilities; or (c) the number of persons served by the facilities; or (d) may be determined by the district on any other basis or classification which the district determines to be fair and reasonable, whether similar or dissimilar to those enumerated, *except that the schedule shall be uniform for all residential property*; or (e) any combination thereof. This schedule may include additional charges for treatment of sewage, with a surcharge where the sewage contains industrial wastes or other wastes in excess of limitations established by regulations of the district.

(2) Prior to the final adoption or modification of the schedule for the district area, the district shall adopt a proposed schedule and publish notice thereof pursuant to KRS chapter 424. The notice so published shall be dated as of the date of first publication thereof and shall state that the proposed or revised schedule of rates, rentals, and charges will remain open for inspection in the office of the district for thirty (30) days from the date of the notice, and that objections thereto in writing may be filed during that period with the district by any person aggrieved thereby. The district shall examine and hear any and all complaints, may modify the proposed schedule, and shall adopt and establish a final schedule within sixty (60) days after the date of the notice; the schedule however shall not become final *within a county outside a city of the first class until it has been approved by the fiscal court of the county, or shall not become final* within a city of the first class, unless and until it has received the approval of the legislative body of the city of the first class by ordinance approved by the mayor; Provided, however, the schedule finally adopted shall be sufficient and adequate to cover the purposes of this chapter. The schedules shall be uniform for all property falling within the same classification, which classification may be based upon the length of time the property has been in the district area, the drainage area within which the property lies or any similar or dissimilar reasonable classification, *except that the schedule shall be uniform for all residential property.* The schedule so adopted and established shall thereafter be the rates, rentals and charges for the use of the facilities of the district by users within the district area, until changed in the manner herein provided. The schedule of rates, rentals, and charges shall be established and revised from time to time so as to produce aggregate revenues to the district sufficient (a) for the payment of the interest on and principal of all revenue bonds and other obligations of the district except construction subdistrict obligations and bonds; (b) for the payment of all cost and expenses of operating and maintaining the sewer and drainage system of the district within the district area, including but not limited to that portion of the salaries, wages, and fees of all officers and employes of the district equitably allocable to operations within or for the district area; and (c) for the payment of all cost of renewals and replacement of such system within the district area; Provided, however, That all expenses, salaries, wages, and fees necessary or incident to improvements for the account of which bonds are issued, may be included as a part of the cost of the improvements and paid from the proceeds of the bonds. The district may collect the sewer rates, rentals, and charges, or cause them to be collected and paid to it by agencies it designates, and with whom it may make such contracts or arrangements as the district deems proper. No moneys received on account of the

existence or operation of construction subdistricts shall be used for the payment of district obligations, and no other moneys received by the district shall be used for the payment of construction subdistrict bonds or obligations. Except as provided in the preceding sentence the use of all moneys of the district received from any and all sources is hereby limited exclusively and shall be devoted solely to the payment of all obligations of the district and board created by KRS 76.010 to 76.210, and no funds from any sources authorized by KRS 76.010 to 76.210, shall be diverted to any other purposes than those in KRS 76.010 to 76.210 set forth, except that the district shall pay from district area revenues an equitably allocable share of the cost of constructing and operating any nondistrict area facilities to which sewage from the district area is diverted in order to relieve facilities from excessive sewage and costs described in KRS 76.248 but otherwise paid for.

(3) Whenever an area located within the district is served initially by a construction subdistrict facility, the schedule of rates, rentals and charges applicable to the particular construction subdistrict shall, at the discretion of the board, be applied to the area.

(4) Whenever any such sewer rates, rentals or charges for services rendered remains unpaid for a period of thirty (30) days after the same becomes due and payable, the district shall declare the property, the owner thereof, and the user of the service, delinquent until such time as all service rates, rentals and charges are fully paid and may cut off the sewer connection and service. It is unlawful for any delinquent to use water from any public water service or system and discharge same into a public sewer. No public water service or system shall furnish the delinquent with water to be discharged into a public sewer. The district may enter into agreements with any public water company or public water service providing for the discontinuance of water service to delinquents.

Section 26. KRS 76.172 is amended to read as follows:

(1) The ordinance providing for the construction of sewerage or drainage facilities and appurtenances shall describe the nature and kind of facilities to be furnished and shall describe the particular area benefited by said sewerage or drainage facilities.

(2) The costs of the sanitary sewers, combined sewers, drains, and appurtenances shall be assessed against the land in said benefited area according to the number of square feet in any lot or tract within the area described in the ordinance, or according to any other equitable basis. If the square foot method of assessment is used, the rate of apportionment shall be the same for each square foot of land in said benefited area, and shall be determined by dividing the cost of the assessable sanitary sewers, combined sewers, drains and appurtenances by the total area of all land benefited in the area. *No property which has been assessed for collector lines shall be reassessed for the installation or reinstallation of collector lines.*

(3) The costs of property service connections from the sewer to the property line or easement line as required shall be assessed against the individual lots or tracts to which such property service connections are furnished. The costs to be assessed for the property service connections shall be fixed by regulation of the metropolitan sewer district based on its experience of costs for such work.

(4) All land included in said described territory shall be assessed, except such property dedicated to use for public roadways and property owned by cities of the first or second class, counties containing cities of the first or second class, and any joint agencies of such cities and counties.

(5) When the board of a metropolitan sewer district determines that such construction of sanitary sewers, combined sewers, drains, appurtenances or property service connections at the cost of the property owners shall be recommended to the board of aldermen of a city of the first class, the metropolitan sewer district shall cause its engineering department to prepare complete drawings and specifications for the work and to keep same available for inspection in its offices.

(6)(a) The actual construction work of the sanitary sewers, combined sewers, drains, appurtenances or property service connections constructed pursuant to such ordinance shall be done by, or under the control of, the metropolitan sewer district.

(b) The cost of the sanitary sewers, combined sewers, drains, appurtenances or property service connections shall include not only the actual construction costs and the costs of any easements required for the sewers, but also costs of surveys, designs, plans, specifications, advertising, inspection and administration; however, these costs other than actual construction costs and costs of easements shall not exceed fifteen per cent (15%) of the actual construction cost of the project. The costs of surveys, designs, plans, specifications, advertising, inspection and administration, but not exceeding a total of fifteen per cent (15%) of the actual construction costs and the cost of any easements shall be paid by the contractor to the metropolitan sewer district at the completion of the work so that such costs may be included in the apportionment warrants.

(7) A lien superior to all liens except the liens for state, county, city, school and road taxes and liens prior in time for other public improvements shall exist against the respective lots or tracts of land for the cost of the sanitary sewers, combined sewers, drains, appurtenances or property service connections for apportionment as hereinafter provided for, and interest thereon at the rate of six per cent (6%) per annum.

(8) No error in the proceedings of the city legislative body shall exempt such property from payment after the work has been done as required by either the ordinance or contract, but the city legislative body, or

the courts in which suits shall be proceeding, shall make all corrections, rules and orders to do justice to all parties concerned. In no event, if the sanitary sewers, combined sewers, drains, appurtenances or property service connections are constructed as provided, by ordinance or contract, shall the city or the metropolitan sewer district be liable for the costs of the sanitary sewers, combined sewers, drains, appurtenances or property service connections without the right to enforce such costs against the property receiving the benefit.

(9) Upon completion and acceptance of the sewer facility constructed, the metropolitan sewer district shall make out all apportionment warrants for which liens are given for improvements of sewer facilities and shall immediately enter them in alphabetical order upon a register kept for that purpose. When the holder of the warrant has obtained payment, he shall notify the metropolitan sewer district and it shall mark upon the register the fact of payment.

(10) The lien shall exist from the date of the apportionment warrant, but a lien shall not be valid against a purchaser for a valuable consideration without notice, unless the apportionment warrant is entered and registered within ten (10) days of its issuance.

(11) After any sewer facilities have been constructed in conformity with this section the metropolitan sewer district shall give notice by publication pursuant to KRS chapter 424 of the costs apportioned, and the amounts assessed and levied on the various tracts of land liable for the payment.

(12) When property is annexed to a city of the first or second class and subsequently is connected to a sewer owned or operated by the metropolitan sewer district, payment shall be made to the district of a proportionate part of the construction costs of the sewer on the basis that would apply if the sewer were being built within the corporate limits of the city by apportionment of costs against the benefited area as provided in this section.

(13) The district may construct sewerage or drainage facilities in areas of the district located outside of the city of the first class by assessment, using the procedures set forth in this section, with the word "ordinance" being read as "resolution," the words "board of aldermen" being read as "fiscal court," the words "city legislative body" being read as "fiscal court," and the word "city" being read as "county."

Section 27. KRS 76.030 is amended to read as follows:

(1) The business, activities, and affairs of such district shall be managed, controlled and conducted by a board composed of *seven (7)* [five (5)] members, *four (4)* [three (3)] of whom shall be appointed by the mayor of such city subject to the approval of the city legislative body, and *three (3)* [two (2)] of whom shall be appointed by the county judge of such county subject to the approval of the fiscal court, and which *seven (7)* [five (5)] members thus appointed shall constitute the board of such district. Not more than *four (4)* [three (3)]members of the board shall be affiliated with the same political party. *After the effective date of this Act, members shall be so selected and appointed so that no more than one member resides in any one state senatorial district.*

(2) Each such member shall be at least twenty-five (25) years of age; each appointed by the mayor [and] shall be a resident of such city and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment; each appointed by the county judge shall be a resident of such county and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment. No officer or employe of such city or county, whether holding a paid or unpaid position, shall be eligible for appointment as a member of such board.

(3) On the first day of July, 1946, or as soon thereafter as may be practicable, the mayor, subject to the approval of the city legislative body shall appoint one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and one (1) member for a term of four (4) years, and the county judge, subject to the approval of the fiscal court, shall appoint one (1) member for a term of three (3) years and one (1) member for a term of four (4) years, and upon the expiration of each of said terms respectively and thereafter, the term of each of such members shall be four (4) years, ending on July first. *After the effective date of this Act, the county judge, subject to the approval of the fiscal court, shall appoint one (1) member whose term shall expire on July 1, 1979; thereafter the term of this member shall be four (4) years, ending on July 1. The mayor, subject to the approval of the city legislative body shall appoint one (1) member whose term shall expire on July 1, 1979, and thereafter the term of this member shall be for four (4) years, ending July 1.* A member is eligible to succeed himself, and shall continue in office until his successor has been appointed and qualified. Vacancies in the membership shall be filled for the unexpired portion of the term by the mayor or the county judge as the case may be, subject to the same approval.

(4) Any member of the board appointed by the mayor may be removed by the mayor, for cause, after hearing by the mayor, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the mayor shall be final and removal results in vacancy in such office. Any member of the board appointed by the county judge may be removed by the county judge, for cause, after hearing by the county judge, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The

finding of the county judge shall be final and removal results in vacancy in such office.

(5) The members of the board shall be paid ten dollars ($10.00) for each meeting of the board attended by such member, but no member of said board shall be paid more than two hundred and forty dollars ($240) during any fiscal year of the board, nor for more than twenty-four (24) meetings held during any fiscal year of said board.

Section 28. KRS 107.060 is amended to read as follows:

(1) Any owner of property to be benefited by the proposed project, *including wastewater collection projects undertaken by metropolitan sewer districts* may, within thirty (30) days after passage and publication of the Second Ordinance:

(a) File an action in the circuit court of the county in which the city is situated (or, if the city be situated in more than one county, in the circuit court of any such county) seeking relief by declaratory judgment, injunction, or otherwise; or

(b) File in the office of the city clerk a written, notarized statement of intent to file such an action, indorsed by a licensed attorney at law to the effect that, in his opinion, his client has a reasonable and legitimate probable cause for such proposed litigation, in which event the time for filing such action shall be extended for fifteen (15) days after the date such statement is filed.

(2) In the event of either (a) or (b), above, all proceedings of the city with respect to the proposed project shall be abated until final judicial determination of the controversies presented thereby. In the absence of action by any owner of property proposed to be benefited, as herein provided, the provisions of the Second Ordinance shall be final and binding. After the lapse of time as herein provided, all actions by owners of properties to be benefited shall be forever barred.

SECTION 29. A NEW SECTION OF KRS CHAPTER 107 IS CREATED TO READ AS FOLLOWS:

The provisions set forth herein are severable. If any provision, or its application shall be held to be invalid, the invalidity of such provision shall not affect any other provision, or its application under different circumstances.

Section 30. There is hereby appropriated from the general fund one million five hundred thousand dollars ($1,500,000) for fiscal year 1977-78 to the "Kentucky Wastewater Revolving Fund".

The Committee Amendment No. 1 to **SB 12** is as follows:

Amend printed copy of Senate Bill 12 on page 62, line 26, and on page 63, lines 1 through 3, by deleting Section 30 in its entirety;

and on page 62, line 26, by inserting a new section as follows:

"Section 30. Upon certification by the metropolitan sewer district to the executive department for finance and administration, the department shall cause to be transferred from the capital construction account the necessary amount for deferment of benefit assessments not to exceed one million five hundred thousand dollars ($1,500,000)."

The Committee Amendment No. 2 to **SB 12** is as follows:

Amend printed copy of Senate Bill 12 on page 62, after line 18 and before 19, by creating a new section and renumbering the remaining sections accordingly:

"SECTION 29. A NEW SECTION OF KRS CHAPTER 107 IS CREATED TO READ AS FOLLOWS:

(1) Any public official, public employee or person who solicits and/or accepts, directly or indirectly, by himself or in conjunction with another person, any money, gift, or other advantage, in exchange for the promise and/or receipt of employment, monetary gain, or other benefits, under the provision of this chapter shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000), or imprisoned for not less than two (2) years nor more than ten (10) years or both.

(2) Any person, committee, association, organization, or corporation who promises, offers, or gives money, gift, or other advantage to obtain or attempt to obtain benefits or the promise of benefits, financial or otherwise, under the provisions of this chapter shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000), or imprisoned for not less than two (2) years nor more than ten (10) years, or both."

The Committee Amendment No. 3 to **SB 12** is as follows:

Amend printed copy of Senate Bill 12 on page 52, line 12, by inserting after the word "proper" and before the "." the following:

"*, except that, at the option of the assessed property owner-occupant, one-sixth of the annual assessment shall be collected bi-monthly by the water utility company serving a wastewater collection project area, provided such owner agrees to continue payment of said annual assessment to the water utility if the assessed property is rented, vacated, destroyed or for some other reason becomes uninhabitable. If a tenant pays any portion of a benefit assessment on the property, the amount of the payment shall be credited toward the rent owed.*"

The Committee Amendment No. 4 to **SB 12** is as follows:

Amend printed copy of Senate Bill 12 on page 62, after line 18 and before line 19, by inserting the following:

"SECTION 29. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

Sections 29 through 41 of this Act shall be known as the "Consultants' Selection and Negotiation Act."

SECTION 30. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

The general assembly declares it to be a legislative finding of fact that it is in the best interest of the public health, safety, and welfare and of good fiscal management to seek the most qualified and competent individuals and firms at fair, competitive, and reasonable compensation to provide professional services to all units of government. The general assembly expresses its desire by this Act to promote competition on the basis of demonstrated professional skill among firms interested in providing professional services to units of government. Therefore, the general assembly declares it to be in the public interest to prohibit the payment of contingent fees or other considerations for obtaining professional service contracts financed from public funds.

SECTION 31. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

As used in Sections 31 through 41 of this Act, unless a different meaning is clearly indicated by the context:

(1) "Professional services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered land surveying as defined by the laws of the state of Kentucky or those services performed by any architect, professional engineer, landscape architect, or registered land surveyor in connection with his or her professional employment or practice.

(2) "Agency" means a metropolitan sewer district establishing or operating a wastewater collection project.

(3) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity, other than a regular, full-time agency employe, permitted by law to practice architecture, engineering, landscape architecture, or land surveying in Kentucky.

(4) "Compensation" means the total amount paid by the agency for professional services.

(5) "Agency official" means any elected or appointed officeholder, employe, consultant, any person having a professional service contract with the agency, or any other person receiving compensation from an agency.

SECTION 32. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

(1) On each occasion when professional services are required to be purchased from a firm, no agency shall make a contract for professional services without first:

(a) Making newspaper advertisement for bids in accordance with KRS Chapter 424;

(b) Publicly announcing its requirement for professional services in uniform and consistent manner; and

(c) Mailing an announcement of its requirement for professional services to each certified firm that has requested such notification.

(2) Each announcement and advertisement required by subsection (1) of this section shall include a general description of the project for which professional services are required and shall indicate how interested firms can apply for consideration.

SECTION 33. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

(1) Any firm desiring to provide professional services to an agency shall first be certified by the agency as qualified, pursuant to law and to the regulations of the agency adopted under this section, to provide professional services needed by the agency.

(2) Each agency shall adopt regulations establishing the factors and administrative procedures to be used in the evaluation and certification of the services of firms desiring to provide professional services to the agency. The evaluation factors shall include, but need not be limited to, the capabilities, adequacy of personnel, past record and experience of firms, such other factors as the agency may determine to be applicable to its particular requirements, and the ranking of such factors in importance if such ranking is used by the agency in evaluating the professional services of firms.

(3) The agency's evaluation and certification procedures shall be made known to all firms requesting consideration for certification and shall be a matter of public record, open to public inspection.

SECTION 34. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

(1) Each agency shall encourage firms engaged in the lawful practice of their profession and who desire to provide professional services to the agency to apply for certification by submitting a current statement of qualifications and performance data to the agency.

(2) Upon receipt of a firm's application, for certification, the agency shall make a finding that the firm is or is not fully qualified to render the required professional services, based upon the information supplied by the firm and the agency's regulations. Upon completion of its review, the agency shall notify the firm of its decision and the reasons therefor.

(3) Any firm aggrieved by an agency's decision that the firm is not fully qualified to render the required services may, within ten (10) days after receiving notification of the decision, request in writing a reconsideration of its application, and may submit additional evidence bearing on its qualifications. The agency shall thereupon reconsider the application and may adhere to, modify or reverse its previous decision. The agency shall act upon any request for reconsideration within thirty (30) days after the filing of the request and shall immediately notify the applicant of the action taken. Within ten (10) days of its notification of the agency's final action on the reconsideration, any firm that is still aggrieved by the agency's decision may appeal to the Franklin Circuit Court or any other court of competent jurisdiction on the grounds of fraud or abuse of discretion by the agency. The appeal shall be perfected by filing a bond with the clerk of the court in such amount as the clerk may fix and by causing a summons to be served upon the agency as in other civil actions. The court shall hear the evidence offered by the applicant and by the agency and if the court finds that there was neither fraud nor abuse of discretion, it shall dismiss the appeal. Otherwise, the court may make the order with respect to qualifications which it finds should have been made by the agency. The order of the court shall be binding on the agency. Decisions of the court may be appealed in accordance with the Rules of Civil Procedure.

(4) Each certified firm shall annually submit to the agency any information necessary to update the statement of qualifications and performance data last submitted to the agency by the firm.

SECTION 35. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

(1) Each agency shall appoint a selection committee which shall be responsible for all competitive selection activities of the agency. The selection committee shall consist of:

(a) Not less than six (6) elected or appointed public officeholders with direct or indirect responsibility for or official interest in the professional service requirements of the agency; and

(b) Not less than three (3) citizen members who are not agency officials.

(2) Any member of a selection committee who has any direct or indirect financial interest in the outcome of any question before the committee shall disclose the nature of his interest, shall disqualify himself from voting on the question, and shall not be counted for the purposes of a quorum.

SECTION 36. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

(1) For each proposed wastewater collection project for which the professional services of a firm are required, the agency and selection committee shall evaluate current statements of qualifications and performance data of the certified firms that have expressed an interest in providing professional services for the proposed project. The agency and at least a majority of the selection committee members shall conduct discussions with and require public presentations by not less than three (3) certified firms regarding their qualifications for, approaches to, and ability to provide the services required for the proposed project.

(2) The selection committee shall select not less than three (3) certified firms that it deems to be most highly qualified to perform the required services and shall rank the firms in order of preference. In making its selection and ranking of firms, the committee shall consider such factors as the ability of professional personnel; past performance; willingness to meet time and budget requirements; location; and recent, current and projected work loads of the firms. The committee shall also consider the volume of work previously awarded to the firms by the agency with the object of effecting an equitable distribution of professional service contracts among certified firms, provided that such distribution shall not violate the principle of selection of the most highly qualified firms. The committee's preference listing of firm shall be final and in no way subject to modification.

(3) This section shall not apply to professional service contracts of $5,000 or less.

SECTION 37. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

(1) The agency shall attempt to negotiate a contract for professional services with the firm designated as most qualified by the committee, or by the agency in the case of contracts of $5,000 or less, at compensation which the agency determines is fair, competitive and reasonable and consistent with other requirements of this Act. In making its determination of compensation, the agency shall consider the scope and complexity of the professional services required and shall conduct a detailed analysis of the cost of the professional services required.

(2) Should the agency be unable to negotiate a satisfactory contract with the most qualified firm, at compensation which the agency determines to be fair, competitive and reasonable, the agency shall formally terminate negotiations with that firm. The agency shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency shall terminate negotiations with that firm. The agency shall then undertake negotiations with the third most qualified firm.

(3) Should the agency be unable to negotiate a satisfactory contract with any of the selected firms~~,~~ the selection committee, or the agency in the case of contracts of $5,000 or less, shall select additional certified firms in order of their competence and qualifications and the agency shall undertake negotiations with such firms in accordance with this section until an agreement is reached.

(4) For all lump sum or cost plus a fixed fee professional service contracts, the agency shall require the firm receiving the award to execute a truth in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. Any professional service contract for which such a certificate is required shall include a provision that, if the

agency determines that the original contract price was increased due to inaccurate, incomplete or non-current wage rate or cost data, the original contract price and any additions thereto shall be adjusted to exclude the amount of such increase. All such contract adjustment shall be made within one (1) year following expiration of the contract.

(5) The cost of any change orders subsequent to the awarding of a professional service contract shall not exceed the initially negotiated cost. Any professional service contract, including change orders, shall expire not more than three (3) years from the date the contract was awarded. A firm having a professional service contract with an agency may participate without prejudice in subsequent, related contract selection and negotiation proceedings.

SECTION 38. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

(1) Each contract for professional services entered into by an agency shall contain a prohibition against contingent fees as follows: "The architect, landscape architect, registered land surveyor or professional engineer (as applicable) warrants that he has not employed or retained any company or person, other than a bona fide employe working solely for the architect, registered land surveyor, landscape architect or professional engineer, to solicit or secure this agreement, and that he has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employe working solely for the architect, landscape architect, registered land surveyor or professional engineer any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement." For the breach or violation of this provision, the agency may terminate the agreement without liability and may, at its discretion, deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

(2) Any individual, corporation, partnership, firm, or company, other than a bona fide employe working solely for an architect, professional engineer, landscape architect or registered land surveyor, who offers, agrees, or contracts to solicit or secure an agency contract for professional services for any other individual, company, corporation, partnership or firm, and agrees to be paid, or is paid, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or the making of an agency contract for professional services, shall, upon conviction be guilty of a class A misdemeanor.

(3) Any architect, landscape architect, professional engineer, or registered land surveyor, or any group, association, company, corporation, firm, or partnership thereof, who shall offer to pay, or pays, any fee, commission, percentage, gift, or any other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services, shall upon conviction be guilty of a class A misdemeanor.

(4) Any agency official or selection committee member who offers to solicit or secure, or solicits or secures, a contract for professional services in a manner other than as prescribed in this Act or agrees to be paid, or is paid, any fee, commission, percentage, gift, or any other consideration contingent upon the award or making of a contract for professional services between the agency and any individual person, company, firm, partnership, or corporation shall, upon conviction, be guilty of a class A misdemeanor.

SECTION 39. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

The public shall not be excluded from the professional service certification, selection, and contracting proceedings of agencies under this Act. Agencies shall give public notice of all such proceedings. Records of all certification, selection, and contract actions taken by an agency shall be maintained by the agency for not less than three (3) years following the action.

SECTION 40. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

(1) The director of engineering for contractual services related to real property and capital construction projects and for other purchasing services, under the direction of the metropolitan sewer district, shall purchase, or shall delegate and control the purchase of interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the metropolitan sewer district equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, or artistic services, except as otherwise provided by Sections 31 through 41 of this Act (Contracts exempted by this provision shall be referred to the department of personnel of the Commonwealth for review and approval.);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the metropolitan sewer district, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the metropolitan sewer district from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The metropolitan sewer district shall have supervision over all purchases, except as otherwise provided by law, and shall prescribe rules and regulations to govern purchasing by or for all such agencies, subject to the approval of the director, and shall publish a manual of procedures to be distributed and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding unless approved by the metropolitan sewer district.

(4) The metropolitan sewer district shall adopt regulations to require inventories of plant and equipment and shall conduct periodic physical audits of inventories.

(5) The executive department for finance and administration shall sell or otherwise dispose of all property (including any interest in real property) which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use.

(6) The metropolitan sewer district shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the commissioner of the executive department for finance and administration, the governor, and the general assembly. The division shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities.

(7) For capital construction projects, the bidding may be on a total design-bid basis; a package system commonly referred to as "turn key"; phase bidding commonly referred to as "fast track"; or construction management, whichever in the judgment of the commissioner of the executive department for finance and administration offers the lowest real cost to the taxpayer. Bids when delegated to and are received by construction managers shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

SECTION 41. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall affect the validity of any contract in effect on the effective date of this Act. However, any existing contract that continues for more than three (3) years after the effective date of this Act shall then be reviewed by the contracting agency."

And renumber the following sections accordingly.

The Committee on Counties and Special Districts reported **SB 18**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 18, AN ACT relating to the county judge/executive.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

There shall be elected in nineteen hundred and seventy-seven (1977) and every four (4) years thereafter, in each county a county judge/executive who shall enter upon the discharge of the duties of his office on the first Monday in January after his election, and continue in office four (4) years, and until the election and qualification of his successor.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Each county shall have a chief executive officer known as the county judge/executive. Only a resident of the county shall be eligible for election as county judge/executive. He shall be nominated and elected by the qualified voters of the county in the manner provided by law for the election of county officers. In case the office of county judge/executive becomes vacant by reason of death, resignation, or removal, it shall be filled with a person appointed by the Governor, in accordance with section 152 of the Constitution, for the unexpired term.

(2) The salary of the county judge/executive shall be set by the fiscal court.

(3) The minimum annual compensation paid to the county judge/executive shall be a sum not less than sixty percent (60%) of the maximum compensation certified under KRS 64.527, except that no fiscal court shall be required under provisions of this section to approve an amount for the compensation of any one official which would exceed six percent (6%) of the county's total annual general fund receipts including federal revenue sharing monies.

(4) In no event shall the county judge/executive holding office on the effective date of this Act receive less than the total annual compensation received by that official during calendar year 1976.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall be the chief executive of the county and shall have all the powers and perform all the duties of an executive and administrative nature vested in, or imposed upon, the county or its fiscal court by law, or by agreement with any municipality or other subdivision of government, and such additional powers as are granted by the fiscal court. The county judge/executive shall be responsible for the proper administration of the affairs of the county placed in his charge. His responsibilities shall include, but are not limited to, the following:

(1) Provide for the execution of all ordinances and resolutions of the fiscal court, execute all contracts entered into by the fiscal court, and provide for the execution of all laws by the state subject to enforcement by him or by officers who are under his direction and supervision;

(2) Prepare and submit to the fiscal court for approval an administrative code incorporating the details of administrative procedure for the operation of the county and review such code and suggest revisions periodically or at the request of the fiscal court;

(3) Furnish the fiscal court with information concerning the operations of the county departments, boards, or commissions, necessary for the fiscal court to exercise its powers or as requested by the fiscal court;

(4) Require all officials, elected or appointed, whose offices utilize county funds, and all boards, special districts, and commissions exclusive of city governments and their agencies located within the county to make a detailed annual financial report to the fiscal court concerning the business and condition of their office, department, board, commission, or special districts;

(5) Consistent with procedures set forth in KRS Chapter 68, prepare and submit to the fiscal court an annual budget and administer the provisions of the budget when adopted by the fiscal court;

(6) Keep the fiscal court fully advised as to the financial condition and needs of the county and make such other reports from time-to-time as required by the fiscal court or as he deems necessary;

(7) Exercise with the approval of the fiscal court the authority to appoint, supervise, suspend, and remove county personnel (unless otherwise provided by state law); and

(8) With the approval of the fiscal court, make appointments to or remove members from such boards, commissions, and designated administrative positions as the fiscal court, charter, law or ordinance may create.

The requirement of fiscal court approval must be designated as such in the county administrative code or the county charter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) The county judge/executive may create, abolish, or combine any county department or agency or transfer a function from one department or agency to another, provided that he shall first submit plans for such reorganization to the fiscal court. If not disapproved within sixty (60) days, the plans shall become effective.

(2) The county judge/executive or county judge/executives of multi-county districts may, with approval of the fiscal court or fiscal courts, create, any special district; or abolish or combine any special district, provided such district was created solely by one or more such fiscal courts.

(3) The county judge/executive shall assure the representation of the county on all boards, commissions, special districts, and multi-county programs in which county participation is called for.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall execute a bond for the faithful performance of the duties of his office. Such bond shall be executed before the circuit clerk of the county with sureties approved by the circuit judge. Premiums on the bond of the county judge/executive shall be paid from county funds appropriated by the fiscal court.

Section 6. Wherever the words "county judge" appear in previously existing statutes, the language shall be changed by the Revisor of Statutes to read "county judge/executive."

Section 7. KRS 179.110, 25.320 and 25.330 are repealed.

Section 8. Sections two through seven of this Act shall take effect on the first Monday in January after the election specified in Section 1 of this Act.

Section 9. Sections 2 through 6 of this Act shall not apply in counties having an urban county form of government. In such counties, the duties of the county judge shall be as prescribed by the comprehensive plan of such government and his salary shall be fixed by the legislative body of such government.

The Committee Amendment to **SB 18** is as follows:

Amend printed copy of Senate Bill 18 on page 2, line 12, after "county judge/executive" add a comma and insert the following: "justice of the peace, magistrate or commissioners who serve on the fiscal court"

The Committee on Appropriations and Revenue reported **HB 4**, with Second Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Second Committee Substitute to **HB 4** is as follows:

HB 4, AN ACT relating to revenue and taxation.

WHEREAS, legislation introduced in the last session of Congress would have provided a federal tax decrease equivalent to one cent a gallon in states which increased its own gasoline tax by one cent or more per gallon; and

WHEREAS, provided a state did not increase its own tax, the federal government would continue to collect the one cent tax and channel the revenue into the U. S. General Fund; and

WHEREAS, the new Congress could enact such legislation that would become effective prior to the next regular session of the Kentucky General Assembly; and

WHEREAS, in such event, Kentucky would be missing an opportunity to receive much needed additional revenue at the rate of approximately $20 million a year without any increase in tax to the Kentucky consumer of gasoline; and

WHEREAS, this loss could be avoided by enactment of legislation that would automatically increase the Kentucky gasoline tax by the same amount of the federal decrease, in the event of such federal legislation; and

WHEREAS, the enactment of such legislation would, in no way, increase the total gasoline tax paid by Kentucky consumers; and

WHEREAS, the motor vehicle usage tax law now provides an allowance for trade-ins on used motor vehicles but not on new motor vehicles; and

WHEREAS, to equalize the trade-in provision for both new and used motor vehicles would reduce by approximately one-half the additional revenue from the one cent gasoline tax;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.220 is amended to read as follows:

(1) Except as provided in paragraph (2), an excise tax of nine cents per gallon shall be paid on all gasoline received in this state. No other excise or license tax shall be levied or assessed on gasoline by the state or any political subdivision of the state. The tax herein imposed shall be paid by the dealer receiving the gasoline to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340. Nothing herein contained shall authorize or require the collection of the tax upon any gasoline after it has been once taxed under the provisions of this section.

(2) In the event that, on or after January 1, 1977, the federal government enacts a law whereby the federal tax on gasoline is reduced, by tax credits, or reduced rate, in any state which increases its own tax by the minimum specified amount, the rate in paragraph (1) above shall automatically increase by the minimum amount required to pick up the federal credit or decrease in federal tax.

(3) However, in the event that the federal government enacts a law whereby the federal tax on gasoline is reduced and this tax reduction could be passed down as a net savings to the consumer, the provisions in subsection (2) above would not be operative.

Section 2. KRS 138.565 is amended to read as follows:

(1) *Except as provided in paragraph (3),* an excise tax of nine cents per gallon is hereby levied and shall be paid by the special fuels dealer to the department:

(a) For all special fuels delivered into any tank or other container equipped with a hose or other apparatus designed to dispense such fuels into the fuel supply tank of a motor vehicle except when such deliveries are made to another licensed special fuels dealer. The tax imposed by this section shall not apply to special fuels delivered into storage facilities of consumers or persons engaged in the business of selling special fuels for use in motor vehicles when such special fuels are to be sold or used for nonhighway purposes and provided that the storage facilities for such special fuels have been approved and identified as nontaxable storage pursuant to regulations of the department provided that the department may not refuse to approve such nontaxable storage except for adequate cause.

(b) For all special fuels withdrawn by any special fuels dealer and dispensed into the fuel supply tank of a motor vehicle. An allowance of one percent of the tax shall be made to the special fuels dealer to cover unaccountable losses, bad debts, and handling and reporting the tax. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the special fuels dealer to collect the tax, it shall be presumed that all special fuels delivered by any special fuels dealer within this state are taxable unless the contrary is established by the special fuels dealer pursuant to regulations prescribed by the department.

(2) No other excise or license tax shall be levied or assessed on special fuels by any political subdivision of the state.

(3) In the event that, on or after January 1, 1977, the federal government enacts a law whereby the federal tax on diesel fuel and other special motor fuels is reduced, by tax credits, or reduced rate, in any state which increases its own tax by the minimum specified amount, the rate in paragraph (1) above shall automatically increase by the minimum amount required to pick up the federal credit or decrease in federal tax.

(4) However, in the event that the federal government enacts a law whereby the federal tax on gasoline is reduced and this tax reduction could be passed down as a net savings to the consumer, the provisions in subsection (3) above would not be operative.

Section 3. KRS 138.660 is amended to read as follows:

(1) *Except as provided in paragraph (2),* every motor carrier shall pay a tax of nine cents per gallon on the amount of gasoline and nine cents per gallon on the amount of special fuels used in operations on the public highways of this state.

(2) In the event that, on or after January 1, 1977, the federal government enacts a law whereby the federal tax on gasoline, or diesel and other special motor fuels is reduced, by tax credits, or reduced rate, in any state which increases its own tax by the minimum specified amount, the rate in paragraph (1) above shall automatically increase by the minimum amount required to pick up the federal credit or decrease in federal tax.

(3) However, in the event that the federal government enacts a law whereby the federal tax on gasoline is reduced and this tax reduction could be passed down as a net savings to the consumer, the provisions in subsection (2) above would not be operative.

(4) [(2)] In addition to the tax imposed in subsection (1), if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax of two cents per gallon on the amount of gasoline and special fuels used in operations on public highways of this state.

(5) [(3)] The tax levied under subsections (1) and (2) of this section shall be computed and paid as provided in KRS 138.690.

Section 4. KRS 234.320 is amended to read as follows:

(1) *Except as provided in paragraph (2),* an excise tax of nine cents per gallon is hereby levied and shall be paid by the liquefied petroleum gas motor fuel dealer to the department on all taxable liquefied petroleum gas motor fuel delivered to the licensed liquefied petroleum gas motor fuel user-seller or withdrawn by the liquefied petroleum gas motor fuel dealer to propel motor vehicles on the public highways, either within or without this state. An allowance of one percent of the tax shall be made to liquefied petroleum gas motor fuel dealer to cover unaccountable losses, bad debts, and handling and reporting the tax.

(2) In the event that, on or after January 1, 1977, the federal government enacts a law whereby the federal tax on special motor fuels is reduced, by tax credits, or reduced rate, in any state which increases its own tax by the minimum specified amount, the rate in paragraph (1) above shall automatically increase by the minimum amount required to pick up the federal credit or decrease in federal tax.

(3) However, in the event that the federal government enacts a law whereby the federal tax on gasoline is reduced and this tax reduction could be passed down as a net savings to the consumer, the provisions in subsection (2) above would not be operative.

(4) [(2)] No other excise or license tax shall be levied or assessed on liquefied petroleum gas motor fuel by any political subdivision of the state, except the licenses under KRS 234.120.

(5) [(3)] No provision of KRS 234.310 to 234.440 shall in any way affect the surtax imposed on heavy equipment motor carriers under KRS 138.660.

SECTION 5. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) In order to prevent unjust enrichment resulting from the consumption or sale of gasoline or special fuels or liquefied petroleum gas motor fuels on or after the date on which any state gasoline, special motor fuels, or liquefied petroleum gas motor fuels taxes are increased, pursuant to the provisions of this Act, upon which a tax of only nine cents per gallon has been paid into the state treasury, it is hereby declared to be the intent of the general assembly that all gasoline, special fuels, or liquefied petroleum gas motor fuels subject to tax under the provisions of KRS Chapters 138 and 234 which are stored, consumed, or sold on and after the effective date of such state tax increases shall be subject to such additional tax in accordance with such an increase, the total amount of such tax to be determined by the department of revenue. The additional tax which may be levied under the provisions of this Act shall be implemented and collected as follows:

(a) All licensed gasoline, special fuels, and liquefied petroleum gas motor fuels dealers subject to such a tax increase shall report, in a manner and form to be prescribed by the department of revenue, the amount of such fuels on hand at the close of business on the day first preceding the effective date of such tax increases upon which a tax of nine cents per gallon has been paid or accrued and shall remit to the department of revenue such additional tax on each such gallon of gasoline, special fuels, or liquefied petroleum gas motor fuels as required to meet the total increased tax as determined by that department. Such report and tax shall be due and payable on the date prescribed by the department of revenue.

(b) All other persons having gasoline, special fuels, or liquefied petroleum gas motor fuels subject to such a tax increase on hand at the close of business on the day first preceding the effective date of such tax increases which has been subjected to a tax of only nine cents per gallon shall remit to the department of revenue such additional tax on each such gallon of gasoline, special fuels, or liquefied petroleum gas motor fuels as required to meet the total increased tax as determined by that department. Such additional tax shall be due and payable on the date prescribed by the department, and such persons shall file such reports and keep such records in respect thereof as may be prescribed by the department.

(2) Notwithstanding the provisions of subsection (1) of this section, the additional tax which may be levied by this Act shall not be applicable to gasoline, special fuels, or liquefied petroleum gas motor fuels which is in the fuel supply tank of any internal combustion engine.

Section 6. KRS 138.450 is amended to read as follows:

As used in KRS 138.460 and 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, vehicles

that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "*Except as provided in paragraph (4) below,* retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be 90% of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual;

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(4) Notwithstanding the provisions of Paragraph (3) above, provided the tax on gasoline, diesel, other special motor fuels and liquefied petroleum gas is increased as provided for in Section 1(2), Section 2(3), Section 3(2), and Section 4(2) of this Act, "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	*75% of value of same make vehicle* last appearing in manual
2	*50% of value of same make vehicle* last appearing in manual
3	*25% of value of same make vehicle* last appearing in manual
All Others	*10% of value of same make vehicle* last appearing in manual

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, and new motor vehicles sold by Kentucky licensed dealers, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

SECTION 7. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days subsequent to the enactment of federal law either decreasing gasoline, diesel, or special motor fuels tax rates, or increasing related tax credits, the attorney general of this state shall issue a finding confirming such a federal action and detailing the amount of such a tax rate reduction or tax credit increase. Within thirty (30) days subsequent to such an attorney general's finding, the department of revenue shall formally announce the extent by which the corresponding state gasoline, special fuels, or liquefied petroleum gas motor fuels taxes shall be increased pursuant to the provisions of this Act.

(2) All provisions of this Act shall become effective ninety (90) days subsequent to the enactment of federal law which either decreases gasoline, diesel, or special motor fuels tax rates, or increases related tax credits.

The Committee on Highways and Traffic Safety reported **HR 27,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 27, A RESOLUTION urging the Kentucky Department of Transportation to study the feasibility of condemning the Shortway Bridge in Kenton and Campbell Counties.

WHEREAS, the Shortway Bridge is privately owned and charges tolls for its use; and

WHEREAS, the cities of Covington and Newport and the counties of Kenton and Campbell maintain the access roads, without which the bridge would be useless; and

WHEREAS, the tolls charged provide no financial return to the cities and counties and are indeed a significant burden on the local population, especially to those persons on low, fixed incomes; and

WHEREAS, state ownership of the Shortway Bridge would be greatly to the public good;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of the Kentucky Department of Transportation is urged to initiate a study to determine whether it is feasible for the Commonwealth to condemn the Shortway Bridge as a first step in obtaining ownership of the bridge.

Section 2. That the Secretary of the Department of Transportation report his findings to the Interim Joint Committee on Public Utilities and Transportation as soon as possible, and in any event no later than June 30, 1977.

Section 3. That copies of this resolution be forwarded to the honorable John Roberts, Secretary of the Department of Transportation, the mayors of the cities of Covington and Newport and the Kenton and Campbell county judges.

The Committee Amendment No. 1 to **HR 27** is as follows:

Amend printed copy of House Resolution 27 on page 2, line 1, by deleting after the word on the words "Public Utilities and Transportation" and by inserting in their place "Highways and Traffic Safety"

The Committee Amendment No. 2 to **HR 27** is as follows:

Amend printed copy of House Resolution 27 on page 2, line 8, by adding after the word judges "and the rightful legal owners"

The Committee on Rules reported **HB 4** and **HB 20** have been posted for passage in Orders of the Day, December 16, 1976.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Courts: **SB 20, SB 23.**

State Government: **HR 28, SB 17.**

Counties and Special Districts: **HB 12.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, December 16, 1976.

The motion to adjourn was adopted by voice vote.

THURSDAY, DECEMBER 16, 1976

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Beryl Spross, First Church of the Nazarene, Frankfort.

The roll was called. All present except Reprsentatives Hughes and Maynard.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of December 15, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HR 33, by Representative Vincent: A RESOLUTION honoring and commending Victoria Jane Harned.

HR 34, by Representative Schmidt, Donnermeyer, and Mann: A RESOLUTION to adjourn the House in memory of Eugene Ostertag.

Report of Committees

The Committee on Judiicary-Courts reported **SB 23** and **SB 20** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 23, AN ACT relating to defense of indigent persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 31 IS CREATED TO READ AS FOLLOWS:

(1) It shall be the duty of the attorney representing a client under any public defender plan to perfect an appeal if his client requests an appeal.

(2) After the attorney has filed a notice of appeal as required by the Rules of Criminal Procedure, he shall forward to the office of public defender a copy of the final judgment, the notice of appeal, a statement of any errors committed in the trial of the case which should be raised on appeal, and a designation of that part of the record that is essential to the appeal.

(3) No attorney participating in any public defender plan shall be compensated for his services until he has perfected an appeal for a client who requests an appeal and has filed the information required in subsection (2) of this section.

(4) Any public defender attorney who is representing a client on appeal who after a conscientious examination of said appeal believes the appeal to be wholly frivolous after careful examinations of the record may request the court to which the appeal has been taken for permission to withdraw from the case. The attorney must file with that request a brief which sets forth any arguments which might possibly be raised on appeal. A copy of the request for permission to withdraw and the brief must be served upon the client in sufficient time so that the client may raise any argument he chooses to raise.

SECTION 2. A NEW SECTION OF KRS CHAPTER 31 IS CREATED TO READ AS FOLLOWS:

(1) No attorney participating in a public defender plan shall accept any fees for the representation of any needy person as defined in this chapter from that person or anyone for his benefit and the fees for representation of that person shall be limited to the fees provided in this chapter. "Fees" shall include cash, property, or other pecuniary benefits of any kinds.

(2) Any attorney participating in a public defender plan who receives or attempts to collect a fee from a needy person as prohibited by subsection (1) above shall be guilty of a Class D Felony.

Section 3. KRS 31.120 is amended to read as follows:

(1) The determination of whether a person covered by KRS 31.110 is a needy person shall be deferred *no later than* [until] his first appearance in court or in a suit for payment or reimbursement under KRS 31.170, whichever occurs earlier. Thereafter, the court concerned shall determine, with respect to each *step in the proceedings*, whether he is a needy person. However, nothing herein shall prevent appointment of counsel at the earliest necessary proceeding at which said person is entitled to counsel, upon declaration by said person that he is needy under the terms of this chapter. In such event the person involved *shall* [may] be required to make reimbursement for the representation involved if he later is determined not a needy person under the terms of this chapter.

(2) In determining whether a person is a needy person and in determining the extent of his inability to pay, the court concerned *shall* [may] consider such factors as income, property owned, outstanding obligations, and the number and ages of his dependents. Release on bail, *or any other method of release provided in KRS Chapter 431,* does not necessarily prevent him from being a needy person. In each case, the person, subject to the penalties for perjury, shall certify by affidavit of indigency *compiled by the pre-trial release officer, where practical, as provided under Chapter 431 and supreme court rules or orders promulgated pursuant thereto,* such material factors relating to his ability to pay *in such form* as the *supreme* court prescribes.

(3) To the extent that a person covered by KRS 31.110 is able to provide for an attorney, the other necessary services and facilities of representation, and court costs, the court *shall* [may] order him to provide for their payment *in an amount determined by the court and may order that such payment be made in a lump sum or by installment payments. Such determination shall be made at each stage of the proceedings.*

(4) The court shall order all monies collected pursuant to subsection (3) above be paid to the clerk of that court pursuant to the schedule of payment. The clerk shall forward to the office of the public defender on a monthly basis a copy of all such orders and the monies collected pursuant thereto with an accounting as to each case.

(5) [(4)] The affidavit of indigency shall be as set out herein:

Commonwealth of Kentucky
County of ______________

Affiant ________, being first duly sworn says that he is not now represented by private counsel and that he does not have the money or assets out of which to employ one; that he is indigent and requests the court to appoint counsel.

Affiant states that his income is ______; that he owns the following property:

Description	Value
	;

that he has the following dependents:

Name	Age	Relationship
		;

and that he has the following obligations:

To whom owed	Amount owing
	.

____
Signature of affiant

Subscribed and sworn to before me this ____, day of ________, 19__.

____
Signature and title of officer
administering the oath

Any persons making false statements in the above affidavit shall be subject to the penalties for perjury under KRS Chapter 523, the maximum penalty for which is five years imprisonment.

Section 4. KRS 31.150 is amended to read as follows:

(1) The *public defender* [county attorney], on behalf of the *Commonwealth of Kentucky, shall* [county, or any other contributing agency in its behalf, may] recover *where practical* payment or reimbursement, as the case may be, from each person or his estate who has received legal assistance or another benefit under this chapter:

(a) To which he was not entitled;

(b) With respect to which he was not a needy person when he received it; or

(c) With respect to which he has failed to make the certification required by KRS 31.120(2); [and]

(d) For funds not paid as ordered pursuant to KRS 31.120 (3); and

(e) [(d)] For which he refuses to pay or reimburse. Suit must be brought within five (5) years after the date on which the aid was received.

(2) The *public defender* [county attorney], on behalf of the *Commonwealth of Kentucky, shall* [county, or any other contributing agency in its behalf, may] recover *where practical* payment or reimbursement, as the case may be, from each person, other than a person covered by subsection (1), who has received legal assistance under this chapter and who, on the date on which suit is brought, is financially able to pay or reimburse the *Commonwealth of Kentucky* [county] for it according to the standards of ability to pay applicable under KRS 31.100(3), 31.110(1) and 31.120(2), but refuses to do so. Suit must be brought within five (5) years after the date on which the benefit was received.

(3) Amounts recovered under this section shall be paid into *a special account for the office of public defender* [the county general fund, or to any other contributing agency].

(4) Any attorney participating in a public defender plan shall forward all information which he may have which indicates that payment or reimbursement may be obtained pursuant to subsections (1) and (2) of this section.

Section 5. KRS 431.515 is amended to read as follows:

(1) All trial courts in this Commonwealth having jurisdiction of criminal causes shall provide such pre-trial release investigation and services as necessary to effectuate the purposes of KRS 431.510 to 431.550 *and, where practical, to assist in the earliest possible determination of whether a person is a needy person under KRS Chapter 31.*

(2) The Supreme Court may by appropriate rule or order establish and provide for such pre-trial investigation and release services *including, where practical, the taking of financial statements, and the court's determination of whether a person is a needy person as provided in KRS 31.120* and the costs thereof shall be deemed a necessary governmental expense payable from the state treasury.

Section 6. KRS 431.530 is amended to read as follows:

(1) Any person who has been permitted to execute a bail bond in accordance with KRS *431.520(3)(b)* [413.520(3)(b)] shall deposit with the clerk of the court before which the action is pending, a sum of money equal to 10% of the bail, but in no event shall such deposit be less than $10.

(2) Upon depositing said sum the defendant shall be released from custody subject to all conditions of release imposed by the court.

(3) If the conditions of release have been performed and the defendant has been discharged from all obligations in the action the clerk of the court shall return to the defendant, unless the court orders otherwise, 90% of the sum deposited and shall retain as bail costs 10% of the amount deposited; provided, however, in no event shall the amount retained by the clerk as bail costs be less than $5. *It is further provided that the court shall order the clerk of court to pay into the public defender special account any amount of the sum deposited by the defendant, in excess of bail costs, which in its sound discretion represents a reasonable fee for any public defender legal or investigative services provided for the defendant under KRS Chapter 31, but in no event shall the amount so paid to the public defender special account as public defender legal and investigative fees be less than $5 per case.* At the request of the defendant the court may order the amount repayable to defendant from such deposit to be paid to defendant's attorney of record.

(4) If a final judgment for a fine and court costs or either is entered in the prosecution of an action in which a deposit has been made in accordance with subsection (1) of this section, the balance of such deposit, after deduction of bail costs *and public defender fees* as provided for in subsection (3) of this section, shall be applied to the satisfaction of the judgment.

SB 20, AN ACT relating to judicial support agencies and personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The administrative office of the courts is created to serve as the staff for the Chief Justice in executing the policies and programs of the Court of Justice. The director of the administrative office of the courts, employes thereof, and administrative assistants of the Chief Justice shall serve at the pleasure of the Chief Justice. Provided, however, the director shall be appointed or reappointed at least every four years with the advice and consent of the Senate; but if the Senate is not in session when a term expires or a vacancy occurs, the Chief Justice shall make the appointment to take effect at once, subject to the approval of the Senate when convened. The salaries of the director, employes thereof, and administrative assistants of the Chief Justice shall be fixed by order of the Chief Justice and paid monthly or at such other periods as may be consonant with the policy applicable to payment of salaries of state employes out of the state treasury. While holding their positions the director, employes of the office and administrative assistants shall not practice law in any court of this Commonwealth.

Section 2. KRS 27A.015 is repealed.

Section 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the entire Act shall be invalid, and to this end the provisions of this Act are not severable.

The Committee on Appropriations and Revenue reported **SB 24** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 24, AN ACT relating to corporation taxes.

WHEREAS, an inequality exists in the application of Corporation License Tax to certain Kentucky corporations who elect to operate through the subsidiary form of organization instead of through the divisional form, and

WHEREAS, such Kentucky corporations operate their business in the same manner as those who elect to employ unincorporated divisions, and

WHEREAS, it is recognized that such license tax inequality may discourage certain foreign corporations from choosing a Kentucky location that would benefit the economy of the Commonwealth, and

WHEREAS, it is the desire of the General Assembly to equalize the treatment of such corporations by requiring that, insofar as possible, similar corporations with similar operations shall pay a similar amount of tax whether they choose subsidiaries or divisions as their operating units, and

WHEREAS, the General Assembly has exempted certain corporations from the license tax but has not exempted the owners of those corporations on their ownership interest.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of this chapter, a corporation whose commercial domicile is in this state and holds stock or securities in other corporations equal to or greater than 50% of its total assets may, at the option of the taxpayer, be considered as one corporation for purposes of determining and apportioning total "capital", or compute its "capital" under KRS 136.070(2) as follows:

(a) Determine the corporation's total capital as provided in KRS 136.070(2).

(b) Deduct from the amount determined in (a) above, the book value of its investment in the stock and securities of any corporation in which it owns more than 50% of the outstanding stock of such corporation.

(2) For purposes of determining the ratio of stock and securities to total assets, the value shall be the value of the accounts as reflected on financial statements prepared for book purposes as of the last day of the calendar of fiscal year. The term "stock and securities" as used in this section means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, and evidences of indebtedness. The term "book value" means the value as shown on financial statements prepared for book purposes as of the last day of the calendar or fiscal year.

Section 2. The provisions of this Act shall apply to taxable years beginning on or after January 1, 1977.

The Committee on Appropriations and Revenue reported **HB 30,** with Committee Substitute and Committee Amendments to the Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered placed in Orders of the Day.

The Committee Substitute for **HB 30** is as follows:

HB 30, AN ACT relating to appropriations for the operation, maintenance, support and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

GENERAL FUND

There is appropriated out of the General Fund for the fiscal year ended June 30, 1976, and, including any unappropriated surplus to the General Fund as of June 30, 1976, for the fiscal year beginning July 1, 1976, and ending June 30, 1977, and, including any unappropriated surplus to the General Fund as of June 30, 1977, for the fiscal year beginning July 1, 1977, and ending June 30, 1978, the following sums for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, and agencies of the State Government, and any and all other activities of the government of the Commonwealth of Kentucky subject to the provisions of Chapters 21, 42 and 45 of the Kentucky Revised Statutes, for which a specific appropriation is in Part I listed as follows:

A. GENERAL GOVERNMENT

1. GOVERNOR

1976-77	$ 714,100
1977-78	$ 745,500

2. LIEUTENANT GOVERNOR

1976-77	$ 255,000
1977-78	$ 280,000

3. SECRETARY OF STATE

a. General Operations

1976-77	$ 522,200
1977-78	$ 545,700

b. Restoration of Land Grant Books

1976-77	$ 20,000
1977-78	$ 20,000

TOTAL - SECRETARY OF STATE

1976-77	$ 542,200
1977-78	$ 565,700

4. BOARD OF ELECTIONS

1976-77	$ 965,500
1977-78	$ 982,900

The sum of $612,000 from the appropriation for the 1976-77 fiscal year, and $615,000 from the appropriation for the 1977-78 fiscal year is provided to pay the state's share of county election expenses (KRS 117.345). Any unexpended amount remaining at the close of each fiscal year shall lapse to the credit of the General Fund. Any expenses in excess of the above amounts shall be deemed a necessary governmental expense.

5. TREASURER

1976-77	$ 706,700
1977-78	$ 753,100

6. DEPARTMENT OF LAW

1975-76	$ 44,000
1976-77	$ 1,743,900
1977-78	$ 1,879,500

7. AUDITOR OF PUBLIC ACCOUNTS

1976-77	$ 648,800
1977-78	$ 658,900

Any expenses incurred in the auditing of federal disaster relief funds shall be deemed a necessary governmental expense.

8. GENERAL CONTINGENCY FUND

1975-76	$ 200,000
1976-77	$ 2,246,300
1977-78	$ 2,250,000

Funds are appropriated for meeting expenses deemed necessary by the Governor, and to be expended by the Governor, at his discretion, for any emergency or other contingency that he may determine requires the expenditure of any part of said fund. Any unexpended balance at the close of the 1976-77 fiscal year shall not lapse, but shall continue into the 1977-78 fiscal year.

9. CAPITAL PLAZA

1976-77	$ 2,333,500
1977-78	$ 2,331,200

10. COUNTY COSTS

1975-76	$ 183,000
1976-77	$ 11,142,200
1977-78	$ 12,729,300

All county costs funded by the General Fund are deemed to be necessary governmental expenses and additional funds may be allotted from the General Fund surplus by the Commissioner of the Executive Department for Finance and Administration.

Included in the above appropriation are $40,600 in fiscal year 1976-77 and $81,300 in fiscal year 1977-78 for increased personnel and salary levels for the Commonwealth Attorney's support staff. Allocation decisions concerning these discretionary funds will be made by the Prosecutors Advisory Council.

Also included in the above appropriation is $150,000 in fiscal year 1977-78 for additional staff in the office of the County Attorney. Allocation decisions concerning these discretionary funds will be made by the Prosecutors Advisory Council.

All expenditures concerning Commonwealth Attorneys and County Attorneys will continue to be administered by the Executive Department for Finance and Administration while policy determination and decisions relating to discretionary funds will be made by the Prosecutors Advisory Council.

11. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

a. State Planning Fund

1975-76	$ 300,000
1976-77	$ 2,100,000
1977-78	$ 2,100,000

Any portion of the above appropriation for the State Planning Fund may be transferred to other major program areas or agencies of state government for the purpose of funding planning studies approved by the State Planning Committee.

b. General Operations

1975-76	$ 3,163,700
1976-77	$ 12,594,400
1977-78	$ 11,665,300

Included in the above appropriation for fiscal year 1975-76 is $1,000,000 for use in implementation of the Judicial Article and related legislation requiring certified municipal and county audits for return of revenue purposes and for the purposes of ascertaining the current level of revenues and expenditures in the inferior courts. Any unexpended balance in this account at the close of the 1975-76 fiscal year shall not lapse but shall continue into the 1976-77 fiscal year. Likewise, any unexpended balance in this account at the close of the 1976-77 fiscal year shall not lapse, but shall continue into the 1977-78 fiscal year.

c. Salary Improvements for State Employees

1976-77	$ 13,000,000
1977-78	$ 15,000,000

Any portion of the above appropriation may be transferred to any major program area or agency of state government for the purpose of meeting salary improvements for state employees as determined to be needed by the Executive Department for Finance and Administration based upon the recommendation of the Department of Personnel.

Any unexpended balance in the account for salary improvements for state employeees at the close of the 1976-77 fiscal year shall not lapse, but shall continue into the 1977-78 fiscal year.

d. Coal Miners Pneumoconiosis Fund

1976-77	$ 4,000,000
1977-78	$ 4,000,000

These funds are appropriated to the Coal Miners Pneumoconiosis Fund. This fund shall be used for compensating coal worker claimants entitled to benefits for coal workers' pneumoconiosis or silicosis as defined in KRS Chapter 342. If, however, the production of coal severed within the meaning of KRS Chapter 143 shall be less than 150,000,000 tons for each fiscal year 1976-77 or 1977-78 the Fund shall be reduced at the rate of six (6) cents per ton to the severed tonnage for each said fiscal year.

TOTAL - EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

1975-76	$ 3,463,700
1976-77	$ 31,694,400
1977-78	$ 32,765,300

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12. GENERAL OBLIGATION BONDS

1976-77	$ 10,375,000
1977-78	$ 10,385,000

For the principal and interest on bonds issued to pay veterans' bonuses, on general obligation park bonds, and on 1965 general obligation bonds.

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13. COMMISSION ON HUMAN RIGHTS

1976-77	$ 633,600
1977-78	$ 665,800

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14. KENTUCKY RETIREMENT SYSTEMS

1975-76	$ 250,000
1976-77	$ 129,000

Funds for fiscal year 1976-77 are to support the Military Service Credit Program. Any unexpended balance at the close of fiscal year 1976-77 shall carry forward into the 1977-78 fiscal year and be restricted to the same purpose.

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15. DEPARTMENT OF MILITARY AFFAIRS

1975-76	$ 1,126,300
1976-77	$ 1,604,800
1977-78	$ 1,664,300

Any expenditures of funds as a result of the Governor's call of the Kentucky National Guard to active duty is hereby declared to be a necessary governmental expense provided, however, that an emergency situation shall have been declared to exist by the Governor.

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16. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Kentucky Athletic Commission

1976-77	$ 35,500
1977-78	$ 35,500

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17. DEPARTMENT OF PERSONNEL

1976-77	$ 2,100,600
1977-78	$ 2,231,500

Notwithstanding the provisions of KRS 18.330, the above appropriations are to be used for the pro-rata cost of administering a merit system of personnel administration for the civil service of the Commonwealth for all departments, commissions, boards, or other agencies which receive support from the General Fund or Revolving Trust and Agency Funds. Said appropriations may also be used for special training programs approved by the Commissioner for Finance and Administration.

Relative to merit hearings before the Personnel Board, the particular agency of which the complainant is or was an employee shall bear all of the administrative costs thereof whenever the Personnel Board rules in favor of the complainant, such as for example, but not limited to, the fees of court reporters, the printing or other reproduction expenses related to hearing transcripts, and other related matters. Relative to all appeals resulting from merit hearings of the Personnel Board, including appeals to the Circuit Court, Court of Appeals, or the Supreme Court, the particular agency of which the complainant in said hearing is or was an employee shall bear all of the costs thereof whenever the courts rule in favor of the complainant, chargeable to the Personnel Board, such as for example, but not limited to, legal fees and court costs and fees.

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18. DEPARTMENT OF PUBLIC INFORMATION

1976-77	$ 3,080,200
1977-78	$ 3,080,200

The sum of $329,700 from the appropriation for the 1976-77 fiscal year, and $329,700 from the appropriation for the 1977-78 fiscal year may be used for a cooperative advertising program to encourage and assist local governments and agencies in the promotion of tourist attractions. The department may make matching grants not to exceed fifty percent (50%) of project cost to local governments and agencies for such purpose.

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19. DEPARTMENT OF REVENUE

1975-76	$ 762,500
1976-77	$ 18,172,200
1977-78	$ 19,431,300

The above appropriations include $5,562,000 in fiscal year 1976-77 and $5,976,000 in fiscal year 1977-78 for property valuation administrators; any expenses in excess of these amounts for property valuation administrators shall be deemed necessary governmental expenses.

20. FINANCIAL DISCLOSURE REVIEW COMMISSION

1975-76	$ 8,700
1976-77	$ 8,700
1977-78	$ 8,700

21. KENTUCKY PUBLIC EMPLOYEE DEFERRED COMPENSATION SYSTEM

1975-76	$ 68,800
1976-77	$ 73,300
1977-78	$ 81,800

22. COMMISSION ON WOMEN

1975-76	$ 8,000
1976-77	$ 58,000
1977-78	$ 64,000

23. COMMISSION FOR POST-SECONDARY EDUCATION

1975-76	$ 18,800
1976-77	$ 100,000
1977-78	$ 100,000

24. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

1976-77	$ 1,634,100
1977-78	$ 1,699,100

All items included within the Appropriations Not Otherwise Classified category shall be deemed necessary governmental expenses, and any expenditure over the above amounts is to be paid from the General Fund surplus. Appropriations Not Otherwise Classified includes the following items:

a. Back Tax Collections

b. Board of Claims Awards

Funds are appropriated for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $500 in cases where the operating agency admits negligence shall be paid from funds available for the operations of such agencies.

c. Judgments

For payment of such judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board; such payments, where applicable, shall be subject to the provisions of KRS Chapter 45.

d. Prior Year Claims

e. Unredeemed Checks Refunded

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with the provisions of KRS 41.370.

f. Confederate Pensions

g. Blanket Employees Bonds

For payment of premiums on blanket surety bonds as provided by KRS 62.170.

h. Franklin Circuit Court

For purposes of supplies and equipment in accordance with KRS 28.165.

i. Frankfort Planning Commission

j. Frankfort Cemetery

k. Public Improvements

Funds are appropriated for paying assessments for public improvements against property owned by the State, and for which said assessments the State is deemed to be liable.

1. Money Refunded

For refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Commissioner of the Executive Department for Finance and Administration and the Attorney General.

m. Circuit Courts - Employer Retirement
n. Circuit Courts - Social Security
o. Circuit Court Clerks - Life Insurance
p. Commonwealth Attorneys - Life Insurance
q. Circuit Court Clerks - Health Insurance
r. Commonwealth Attorneys - Health Insurance
s. Police and Firemen - Life Insurance

Funds are appropriated for payment of benefits for state and local police and firemen in accordance with KRS 61.315.

t.Workmen's Compensation—Circuit Courts and Commonwealth Attorneys

TOTAL - GENERAL GOVERNMENT

1975-76	$ 6,133,800
1976-77	$ 90,997,600
1977-78	$ 95,388,600

B. DEVELOPMENT

25.OFFICE OF THE SECRETARY

1975-76	$ 150,000
1976-77	$ 1,078,700
1977-78	$ 1,129,300

$239,800 in fiscal year 1976-77 and $300,700 in fiscal year 1977-78 of the above appropriation is for the operation of the Governor's Council on Agriculture.

26.KENTUCKY DEPARTMENT OF ENERGY

1975-76	$ 59,600
1976-77	$ 482,600
1977-78	$ 492,300

27.DEPARTMENT OF PARKS

1975-76	$ 1,585,600
1976-77	$ 13,393,500
1977-78	$ 13,645,200

28.DEPARTMENT OF AGRICULTURE

1975-76	$ 49,000
1976-77	$ 4,738,600
1977-78	$ 4,720,100

29.BREAKS INTERSTATE PARK COMMISSION

1976-77	$ 112,500
1977-78	$ 112,500

For matching funds appropriated by the Commonwealth of Virginia relating to construction, maintenance, and operations at the Breaks Interstate Park. In accordance with the Breaks Interstate Compact this appropriation is contingent upon an appropriation by the Commonwealth of Virginia adequate to match this amount on an equal basis; provided, however, that appropriations to date shall be considered cumulatively, and any deficit in appropriations by this state may be removed.

30.COUNCIL OF ECONOMIC ADVISORS

1976-77	$ 92,500
1977-78	$ 92,500

31.DEPARTMENT OF COMMERCE

1975-76	$ 120,000
1976-77	$ 3,687,900
1977-78	$ 3,764,900

32.STATE FAIR BOARD

1975-76	$ 35,000

1976-77	$ 2,512,500
1977-78	$ 4,325,000

33.HISTORICAL EVENTS CELEBRATION COMMISSION

1976-77	$ 152,500

34.KENTUCKY CENTER FOR ENERGY RESEARCH

a. Operating Costs

1975-76	$ 493,600
1976-77	$ 3,509,200
1977-78	$ 4,619,100

b. Demonstration Trust Fund

1976-77	$ 1,366,900
1977-78	$ 5,164,300

TOTAL - KENTUCKY CENTER FOR ENERGY RESEARCH

1975-76	$ 493,600
1976-77	$ 4,876,100
1977-78	$ 9,783,400

35.KENTUCKY INDUSTRIAL DEVELOPMENT FINANCE AUTHORITY

1976-77	$ 7,800,000
1977-78	$ 300,000

For fiscal year 1976-77, $7,500,000 is appropriated for the creation of a multi-county industrial site development program. Any unexpended balance at the close of the 1976-77 fiscal year shall not lapse, but shall continue into 1977-78 fiscal year.

TOTAL - DEVELOPMENT CABINET

1975-76	$ 2,492,800
1976-77	$ 38,927,400
1977-78	$ 38,365,200

C. EDUCATION

36.OFFICE OF THE SECRETARY

1975-76	$ 155,700
1976-77	$ 172,100
1977-78	$ 181,200

37.ARTS COMMISSION

a. General Operations

1976-77	$ 323,200
1977-78	$ 324,200

b. Challenge Grants

1976-77	$ 250,000
1977-78	$ 250,000

To be distributed to local arts fund raising organizations in accordance with applicable regulations promulgated by the Kentucky Arts Commission.

TOTAL - ARTS COMMISSION

1976-77	$ 573,200
1977-78	$ 574,200

38.DEPARTMENT OF EDUCATION

a. General Administration and Support

1975-76	$ 288,800
1976-77	$ 1,710,200
1977-78	$ 1,781,400

b. Education for Exceptional Children

1975-76	$ 40,350
1976-77	$ 1,555,700
1977-78	$ 1,651,300

c. School for the Deaf

1975-76	$ 14,000
1976-77	$ 2,110,700
1977-78	$ 2,282,000

d. School for the Blind

1976-77	$ 1,035,200
1977-78	$ 1,099,400

e. School Foundation Program

1975-76	$ 6,393,500
1976-77	$404,099,400
1977-78	$448,756,600

Accumulated earnings for the Common School Fund shall each fiscal year be transferred to the School Foundation Program.

The amount to be included for the 1976-77 school year in the Foundation Programs of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following schedule, for a term of 185 days for each rank:

Rank Experience	I	II	III	IV	V
0-3 years	$ 9,513	$ 8,913	$ 8,313	$6,609	$5,917
4-9 years	10,683	10,083	9,513	6,609	5,917
10 years & over	11,363	10,763	10,183	6,609	5,917

Beginning with the school year 1977-78, the amount to be included in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following allotment schedule, for a term of 185 days, for each rank:

Rank Experience	I	II	III	IV	V
0-3 years	$10,218	$ 9,618	$ 9,018	$7,314	$6,620
4-9 years	11,388	10,788	10,218	7,314	6,620
10 years & over	12,068	11,468	10,888	7,314	6,620

No working budget or salary schedule shall be approved in which the average salary paid any rank of teachers is not at least equivalent to the allotment for that rank, or in which any teacher is paid less than ninety-three percent (93%) of the Foundation Program allotment for that rank, except where there is a decline in local revenue of the district concerned after it has levied the maximum ad valorem property tax rate permitted by law. Any such reduction permitted shall be only for the amount of the decline in local revenue.

In the event any local board of education contends there has been a decline in local tax resources in that district, the State Board of Education shall certify such contention to the Department of Revenue. Said department shall then determine whether or not there has, in fact, been a decline in local tax resources of such district, and, if so, the amount of such decline. The Department of Revenue shall then certify its determination to the State Board of Education, and said Board shall accept such certified determination as final.

The State Board of Education shall not approve any working budget or salary schedule for local boards of education for the school years 1976-77 and 1977-78 in which the total amount budgeted per foundation unit for teachers' salaries is not equal to the amount budgeted for teachers' salaries in 1975-76 plus the additional amount for teachers' salaries received by the district under this appropriation.

The allotment to any school district of classroom units, pursuant to KRS 157.360(1) shall not exceed the number of teachers employed by that school district.

Entitlement for basic classroom units obtained in schools of one classification shall not be allocated to schools of another classification. For the purposes of determining such entitlement, classification shall be as follows:

(1) One-teacher schools;

(2) Schools, other than one-teacher schools, with less than one hundred pupils in average daily attendance; and

(3) Schools, other than one-teacher schools, with more than one hundred pupils in average daily attendance.

In the determination of allotments pursuant to KRS 157.360(2), there shall not be allotted a full classroom unit for any non-isolated one-teacher school with fewer than 27 pupils in average daily attendance, or for any isolated one-teacher school which has fewer than 12 pupils in average daily attendance.

Notwithstanding the provisions of KRS 157.360(5), (6), and (10) the allotments, provision for which is made under this Act, for classroom units shall be as follows:

	1975-76	1976-77	1977-78
Vocational Education	2,230	2,458	2,732
Exceptional Children	2,460	3,260	3,860
Kindergarten	200	350	500

Provided, however, that if classroom units in either category prove to be excessive, the surplus not to exceed fifty (50) such classroom units may be reallocated to the other category by the Superintendent of Public Instruction, upon approval of the State Board of Education and the Governor.

Allotments for classroom units pursuant to KRS 157.360(7) shall only be for those personnel enumerated under said subsection who are qualified for their respective positions under applicable provisions of law and regulations, and who maintain programs which have been approved pursuant to applicable regulations.

The amount to be included in the Foundation Program for other current expenses shall be determined by multiplying the number of classroom units by: $2,189 in the 1976-77 school year, and $2,364 in the 1977-78 school year. Funds appropriated in the 1975-76 school year for current expenses shall be allocated by dividing the total funds appropriated by the total number of classroom units in all categories.

The amount to be included in the Foundation Program for capital outlay shall be determined by multiplying the number of classroom units by: $1,650 in the 1976-77 school year, and $1,700 in the 1977-78 school year.

In accordance with the intent of KRS 162.060 and 162.160, no space shall be rented, purchased, or otherwise acquired and thereafter converted to classroom use without prior appoval of the Superintendent of Public Instruction. The State Board of Education may adopt regulations for the housing of school children; provided, however, that no existing room shall be divided by partitions of non-structural materials. No classroom units shall be allotted for a second teacher in the same classroom. No facilities shall be approved for classroom use which are detrimental to the health of, or dangerous to the safety of, school children.

If a school district operates any school or grade of a school for a term of less than nine and one-quarter (9 1/4) scholastic months or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the Superintendent of Public Instruction in determining the allotment of classroom units pursuant to KRS 157.400 and applicable regulations.

Notwithstanding the provisions of KRS 157.400, any undistributed balance in the Foundation Program fund at the end of the fiscal year 1976-77 and 1977-78 shall lapse to the General Fund. Notwithstanding the provisions of KRS 156.650, no unexpended portions of the Foundation Program fund shall be expended at any time for the purpose of KRS 156.610 through 156.650.

Provided, however, that nothing in this Act shall prohibit the Department of Education from distributing these funds in accordance with the provisions of KRS 157A.010 through 157A.990.

Notwithstanding the provisions of KRS 157.370, no funds shall be expended for the purpose of providing transportation beyond the nearest school in which the child can be placed within a local school district to students enrolled in the public schools.

The total appropriation for the Foundation Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 et. seq. If the required expenditures exceed these estimates, the Commissioner for Finance and Administration, with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the hereinabove cited sections of the Kentucky Revised Statutes; provided, however, that any such increase, or the total appropriation to the Foundation Program is subject to Part V, General Provisions, Section 9, of this Act, and the provisions of KRS 45.160.

f. Power Equalization

1977-78	$ 10,500,000

Such funds are appropriated for the purpose of equalizing expenditures among students in local school districts in accordance with appropriate statutory authority. If enabling legislation is not in effect in fiscal year 1977-78, these funds shall remain unallotted, and, shall lapse to the credit of the General Fund at the end of fiscal year 1977-78.

g. General Instructional Services

1976-77	$ 914,400
1977-78	$ 972,600

h. Free Textbooks

1975-76	$ 8,083,400
1976-77	$ 4,531,900
1977-78	$ 4,868,200

For the purchase of textbooks in accordance with KRS 157.100, et. seq., and applicable regulations. Included in the fiscal year 1975-76 appropriation is $7,583,400 for the purchase of textbooks in public high schools. Any unexpended balance remaining in the high school textbook program at the end of fiscal year 1975-76 shall not lapse but shall continue into fiscal year 1976-77. Likewise any unexpended balance remaining in the high school textbook program at the end of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78.

i. Local Administration and Finance

1975-76	$ 167,000
1976-77	$ 989,800
1977-78	$ 961,600

j. Out-of-District Children

1976-77	$ 516,300
1977-78	$ 526,400

Funds are included in the above appropriations for extension of the current program to three day treatment centers and for expansion of the activities from nine and one-quarter (9 1/4) months, to twelve (12) months.

For reimbursement to local school districts for programs provided in accordance with KRS 158.135 and applicable regulations. Provided, however, that if sufficient funds are not available to reimburse each district for the total cost of the services, each allocation shall be reduced in accordance with Part V, General Provisions, Section 9.

k. Teacher Life Insurance

1976-77	$ 619,800
1977-78	$ 632,800

For providing $3,000 of life insurance to each full-time certificated and non-certificated employee of local boards of education.

l. Committee for School District Audits

1976-77	$ 206,300
1977-78	$ 207,900

m. Replacement of Student Fees

1976-77	$ 4,400,000
1977-78	$ 4,600,000

To be distributed to local school districts in accordance with appropriate administrative regulations to be promulgated by the Department of Education, for the replacement of student fees.

n. Teacher Health Insurance

1975-76	$ 8,408,100
1976-77	$ 11,731,600
1977-78	$ 13,487,000

Funds are provided for the purchase of medical insurance for certificated and non-certificated full-time employees of local boards of education pursuant to applicable statutes and regulations.

o. Pupil Personnel Services

1976-77	$ 719,300
1977-78	$ 719,900

p. State School Lunch Assistance

1976-77	$ 3,307,500
1977-78	$ 3,552,500

q. Vocational Education

1975-76	$ 805,100
1976-77	$ 18,363,600
1977-78	$ 18,484,400

r. Vocational Rehabilitation

1975-76	$ 87,100
1976-77	$ 2,006,800
1977-78	$ 2,095,600

TOTAL - DEPARTMENT OF EDUCATION

1975-76	$ 24,287,350

1976-77	$458,818,500
1977-78	$517,179,600

39.KENTUCKY EDUCATIONAL TELEVISION

a. General Operations

1975-76	$ 204,800
1976-77	$ 4,995,500
1977-78	$ 4,365,800

Any unexpended balance, not to exceed $637,500, at the close of fiscal year 1976-77 shall not lapse, but shall continue into the 1977-78 fiscal year reserved for the production of educational television series.

b. Debt Service

1976-77	$ 618,800
1977-78	$ 616,700

TOTAL - KENTUCKY EDUCATIONAL TELEVISION

1975-76	$ 204,800
1976-77	$ 5,614,300
1977-78	$ 4,982,500

40.HERITAGE COMMISSION

a. General Operations

1975-76	$ 23,400
1976-77	$ 178,500
1977-78	$ 182,000

b. Survey of Archaeological Sites

1976-77	$ 110,000
1977-78	$ 120,000

Funds are provided for the purpose of conducting a statewide inventory and survey of archaeological sites in Kentucky upon approval of an accepted plan by the Commissioner for Finance and Administration.

TOTAL - HERITAGE COMMISSION

1975-76	$ 23,400
1976-77	$ 288,500
1977-78	$ 302,000

41.HISTORICAL SOCIETY

1975-76	$ 28,100
1976-77	$ 696,700
1977-78	$ 722,900

42.DEPARTMENT OF LIBRARY AND ARCHIVES

1975-76	$ 384,000
1976-77	$ 4,666,500
1977-78	$ 4,672,500

The appropriation in fiscal year 1975-76 is for the purchase of bookmobiles. Any unexpended balance remaining at the close of fiscal year 1975-76 shall not lapse, but shall continue into fiscal year 1976-77.

TOTAL - EDUCATION AND ARTS

1975-76	$ 25,083,350
1976-77	$470,829,800
1977-78	$528,614,900

43.TEACHERS' RETIREMENT SYSTEM

1976-77	$ 53,894,800
1977-78	$ 60,029,100

For administering and complying with the obligations of the state under the Teachers' Retirement Act as provided in KRS 161.220 through 161.710.

44.COUNCIL ON PUBLIC HIGHER EDUCATION

1975-76	$ 515,000
1976-77	$ 8,071,600
1977-78	$ 12,090,700

Included in the $8,071,600 appropriation for the 1976-77 fiscal year is $886,800 for General Administration and Support activities; $3,536,300 for Coordination and Planning activities and $3,648,500 for the Institutional Pools.

Included in the $12,090,700 appropriation for fiscal year 1977-78 is $948,200 for General Administration and Support activities; $3,668,400 for Coordination and Planning activities; and $7,474,100 for the Institutional Pools.

In fiscal year 1976-77, $2,300,000 and in fiscal year 1977-78, $4,600,000 is appropriated to the Council on Public Higher Education for allocation to the institutions of public higher education for undergraduate enrollment growth, which shall be computed based upon the following factors.

1.The Council on Public Higher Education shall submit to Office for Policy and Management, Executive Department for Finance and Administration, on or before May 1 preceeding the fiscal year for which the appropriation is available all cost data, computations and recommendations for distribution of the enrollment growth pool.

2.Recommendations to the Office for Policy and Management for allotment purposes, shall be based upon actual undergraduate credit hour production with a computation of the full time equivalent enrollments in the undergraduate programs for the preceeding fall semester compared to the same data for the fall semester of the prior fiscal year.

3.The Council on Public Higher Education shall also furnish the Office for Policy and Management computations which reflect the total actual cost per credit hour and the amount of that cost which is supported by the state appropriation for the latest fiscal year that the data can be obtained. In furnishing such information the Council on Public Higher Education shall identify separately data regarding the University of Kentucky Community College system.

4.There is hereby established for calculation and distribution purposes an enrollment growth pool base year. This base year shall be defined as the level of undergraduate enrollments for the fall semester 1975 as calculated by the Council on Public Higher Education.

5.Enrollment growth computations after fiscal year 1975-76 shall be expressed as factors of this base. Allocations for enrollment increases over this base shall be reduced by allotments already received since the establishment of the base, except that any allotment, for this purpose, for a preceeding year shall not be reduced.

6.The amount to be distributed to each institution shall be based upon the analysis of cost as determined by the Council for the preceeding fiscal year. The amounts may be distributed based upon the actual growth, if any, in the number of credit hours produced or increases in under graduate full time equivalent (FTE) enrollment, whichever is less.

In fiscal year 1976-77, $1,348,500, and in fiscal year 1977-78 $2,874,100, is appropriated to the Council on Public Higher Education for allocation to the University of Louisville for tuition income replacement resulting from a reduction of tuition charges, $100 each fiscal year for regular in-state undergraduate, graduate and law school students; this appropriation also includes necessary funds to reduce in-state summer school tuition charges $50 each fiscal year. Any balance remaining in the tuition reduction account at the close of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78.

45.HIGHER EDUCATION ASSISTANCE AUTHORITY

1975-76	$ 78,500
1976-77	$ 3,940,700
1977-78	$ 3,756,400

Of the appropriations $1,500,000 in fiscal year 1976-77 and $1,000,000 in fiscal year 1977-78 shall be used for the revolving Student Loan Program. Also $1,400,000 is appropriated in fiscal year 1976-77, and $1,600,000 is appropriated in fiscal year 1977-78 for the State Student Incentive Grant Program. The Kentucky Tuition Grant Program is appropriated $700,000 in fiscal year 1976-77 and $800,000 in fiscal year 1977-78.

46.UNIVERSITY OF KENTUCKY

1975-76	$ 1,691,357
1976-77	$ 87,419,000
1977-78	$ 92,949,600

47.UNIVERSITY OF LOUISVILLE

1975-76	$ 2,613,942
1976-77	$ 36,056,800

1977-78	$ 39,293,600

48.EASTERN KENTUCKY UNIVERSITY

1975-76	$ 522,361
1976-77	$ 21,685,200
1977-78	$ 23,043,500

49.WESTERN KENTUCKY UNIVERSITY

1975-76	$ 262,580
1976-77	$ 21,060,900
1977-78	$ 22,258,300

50.MOREHEAD STATE UNIVERSITY

1975-76	$ 208,201
1976-77	$ 13,444,600
1977-78	$ 14,342,300

51.MURRAY STATE UNIVERSITY

1975-76	$ 275,334
1976-77	$ 15,068,300
1977-78	$ 16,177,800

52.KENTUCKY STATE UNIVERSITY

1975-76	$ 235,945
1976-77	$ 5,872,500
1977-78	$ 6,331,600

53.NORTHERN KENTUCKY STATE COLLEGE

1975-76	$ 225,107
1976-77	$ 9,344,600
1977-78	$ 10,149,200

TOTAL - PUBLIC HIGHER EDUCATION

1975-76	$ 6,628,327
1976-77	$221,964,200
1977-78	$240,393,000

D. HUMAN RESOURCES

54.DEPARTMENT FOR HUMAN RESOURCES

a. Bureau for Social Insurance

1. Administration

1976-77	$ 14,984,900
1977-78	$ 15,706,200

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the bureau, such amount, with the approval of the Governor, may be used for Public Assistance Benefits to the needy in accordance with the statutes governing the functions and activities of the Bureau for Social Insurance. However, in no instance shall these excess funds be used to:

1. establish a new program,

2. expand the services of an existing program,

3. increase rates or payment levels in an existing program, without the prior written approval of the Governor. Notwithstanding KRS 45.235, any unexpended balance not used for Public Assistance Benefits remaining at the close of the 1976-77 fiscal year shall lapse.

2. Benefits

1975-76	$ 2,025,500
1976-77	$114,502,900
1977-78	$130,284,200

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Bureau for Social Insurance. No portion of this appropriation may be used for the costs of administration except with the prior written approval of the Governor. However, in no instance shall the unexpended balance carried forward, as provided by KRS 45.235, or any portion thereof be used to:

1. establish a new program,

2. expand the services of an existing program,

3. increase rates or payment levels in an existing program, without the prior written approval of the Governor.

All medical assistance vendor statements for services rendered as a result of bona fide claims for medical care may be paid in the fiscal year in which such statements are received by the paying agency.

b. Bureau for Manpower Services

1976-77	$ 385,000
1977-78	$ 580,000

c. Bureau for Health Services

1975-76	$ 4,471,142
1976-77	$ 49,528,500
1977-78	$ 49,857,600

d. Bureau for Social Services

1975-76	$ 106,800
1976-77	$ 20,187,700
1977-78	$ 22,823,400

e. General Administration and Support

1976-77	$ 8,514,000
1977-78	$ 8,514,000

TOTAL—HUMAN RESOURCES

1975-76	$ 6,603,442
1976-77	$208,103,000
1977-78	$227,765,400

E. JUDICIARY

55. COURT OF JUSTICE

a. Judiciary

1975-76	$ 587,000
1976-77	$ 8,265,300
1977-78	$ 7,469,400

To be used for the purposes of the Supreme Court, Court of Appeals, Circuit Court, Clerk of the Supreme Court, and Clerk of the Court of Appeals.

b. Circuit Clerks

1977-78	$ 5,847,700

To be used to provide for services performed by the Circuit Clerk offices, including both circuit and district court support. The specific allocation of clerk personnel and operating expenses shall be made by the Administrative Office of the Court of Justice, based on the statewide need for Circuit Clerk services.

c. Circuit Judges Secretaries

1977-78	$ 619,100

d. Court Reporters

1977-78	$ 532,500

To be used effective January 1, 1978 for statewide circuit court reporter services.

e. Administrative Services

1976-77	$ 195,400
1977-78	$ 620,800

To be used for data processing, judicial forms, court interpreters, pauper transcripts, administration of the Local Court Facility Fund, and state auditor services. To be administered by the Administrative Office of the Courts.

f. District Judges and Trial Commissioners

1977-78	$ 2,317,800

To be used effective January 1, 1978, for District Judges, District Judge support, and Trial Commissioners.

g. Court Administrators

1976-77	$ 112,100
1977-78	$ 236,300

To be used for not more than thirteen statewide court administrators offices and to be administered by the Administrative Office of the Courts. In no instance shall any portion of the 1977-78 appropriation be used in advance of completion of a statewide regional court administration plan, certified by the Administrative Office of the Courts.

h. Local Court Facility Fund

1977-78	$ 1,150,000

To be used effective January 1, 1978, for compensation to local governments according to available square footage standards prescribed and administered by the Administrative Office of the Courts.

TOTAL—JUDICIARY

1975-76	$ 587,000
1976-77	$ 8,572,800
1977-78	$ 18,793,600

F. JUSTICE

56. DEPARTMENT OF JUSTICE

a. Bureau of Training

1976-77	$ 1,387,000
1977-78	$ 1,477,700

b. Bureau of Corrections

1975-76	$ 1,010,500
1976-77	$ 19,839,900
1977-78	$ 20,941,000

c. Bureau of State Police

1975-76	$ 3,269,900
1976-77	$ 28,466,000
1977-78	$ 31,045,500

d. Public Defender

1976-77	$ 2,171,100
1977-78	$ 2,389,000

e. General Administration and Support

1976-77	$ 7,242,700
1977-78	$ 7,712,300

TOTAL—DEPARTMENT OF JUSTICE

1975-76	$ 4,280,400
1976-77	$ 59,106,700
1977-78	$ 63,565,500

G. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

57. DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

a. Bureau of Land Resources

1975-76	$ 655,200
1976-77	$ 8,367,600
1977-78	$ 7,063,100

The appropriation for fiscal year 1976-77 includes $1,000,000 for the Equipment 3, Revolving Fund, any unexpended balance at the close of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78. Also, in fiscal year 1976-77 $250,000 is included for urban flood planning activities, any unexpended balance at the close of fiscal year 1976-77 shall not lapse, but shall continue into the 1977-78 fiscal year.

Not less than $60,000 of the appropriation for each fiscal year shall be set aside for emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of the amount in either fiscal year is hereby declared to be a necessary governmental expense; provided, however, that an emergency situation shall have been declared to exist by the Governor.

b. Bureau of Environmental Quality

1976-77	$ 4,127,800
1977-78	$ 4,357,500

c. General Administration and Support

1976-77	$ 1,328,800
1977-78	$ 1,318,200

TOTAL - DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1975-76	$ 655,200
1976-77	$ 13,824,200
1977-78	$ 12,738,800

58. ENVIRONMENTAL QUALITY COMMISSION

1975-76	$ 23,800
1976-77	$ 47,500
1977-78	$ 47,500

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1975-76	$ 679,000
1976-77	$ 13,871,700
1977-78	$ 12,786,300

H. PUBLIC PROTECTION AND REGULATION

59. OFFICE OF THE SECRETARY

1976-77	$ 145,700
1977-78	$ 154,400

60. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1975-76	$ 23,500
1976-77	$ 691,600
1977-78	$ 698,100

61. DEPARTMENT OF BANKING AND SECURITIES

1975-76	$ 12,000
1976-77	$ 1,397,200
1977-78	$ 1,422,000

Notwithstanding the provision of KRS 47.130, receipts collected by the Department shall be paid into the General Fund.

62. BOARD OF TAX APPEALS

1976-77	$ 95,300
1977-78	$ 95,300

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63. DEPARTMENT OF INSURANCE

1975-76	$ 60,000
1976-77	$ 3,233,400
1977-78	$ 3,429,400

64. DEPARTMENT OF LABOR

a. Operating Cost

1975-76	$ 53,400
1976-77	$ 1,040,600
1977-78	$ 1,040,100

Funds are appropriated for the general operations of the Department of Labor; provided, however, that the amount of General Fund support for the Division of Research and Statistics and the Division of Fiscal and Personnel shall not exceed twenty-five percent (25%) of the total cost of these divisions.

b. Special Fund

1976-77	$ 5,000,000
1977-78	$ 5,000,000

TOTAL—DEPARTMENT OF LABOR

1975-76	$ 53,400
1976-77	$ 6,040,600
1977-78	$ 6,040,100

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65. REGISTRY OF ELECTION FINANCE

1975-76	$ 34,600
1976-77	$ 130,100
1977-78	$ 133,100

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66. DEPARTMENT OF MINES AND MINERALS

1975-76	$ 6,700
1976-77	$ 1,666,000
1977-78	$ 3,186,800

$350,100 in fiscal year 1976-77 and $1,862,900 in fiscal year 1977-78 of the above appropriation are for the operations of the Board of Miner Training, Education and Certification, Division of Mine Safety Analysis and Division of Miner Training, Education and Certification.

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67. PUBLIC SERVICE COMMISSION

1976-77	$ 1,294,500
1977-78	$ 1,344,900

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68. KENTUCKY QUARTER HORSE AND APPALOOSA COMMISSION

1975-76	$ 4,000
1976-77	$ 10,000
1977-78	$ 10,000

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69. KENTUCKY STATE RACING COMMISSION

1976-77	$ 166,900
1977-78	$ 166,900

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70. KENTUCKY HARNESS RACING COMMISSION

1976-77	$ 182,700
1977-78	$ 182,700

71. KENTUCKY HORSE COUNCIL

1975-76	$ 56,000
1976-77	$ 73,600
1977-78	$ 46,800

TOTAL—PUBLIC PROTECTION AND REGULATION

1975-76	$ 250,200
1976-77	$ 15,127,600
1977-78	$ 16,910,500

I. TRANSPORTATION

72. DEPARTMENT OF TRANSPORTATION

a. Air Transportation

1975-76	$ 356,200
1976-77	$ 3,789,700
1977-78	$ 3,025,400

The appropriation for fiscal year 1976-77 includes $2,772,400 and for fiscal year 1977-78, $1,976,600 for the Airport Development Fund. Also, in fiscal year 1976-77 $200,000, is included for the Airport Development Loan Fund. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

b. Water Transportation

1975-76	$ 338,500
1976-77	$ 923,600
1977-78	$ 947,600

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

c. Rail Transportation

1976-77	$ 51,600
1977-78	$ 51,600

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

d. Mass Transportation

1976-77	$ 2,103,400
1977-78	$ 2,103,400

The appropriation in fiscal years 1976-77 and 1977-78 includes $1,200,000 each year for the purchase of general municipal transportation vehicles, the construction of municipal vehicle garages, and $500,000 of the above appropriations each year may be used to establish a Mass Transportation Operating Loan Fund for the purpose of making operating loans to mass transportation authorities. The Department of Transportation shall promulgate rules and regulations establishing the guidelines to be followed in administering the fund. $200,000 of the above appropriations each year shall be used for the transportation of the elderly and handicapped. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

e. General Administration and Support

1976-77	$ 804,200
1977-78	$ 804,200

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

f. Highways

1f. Bureau of Highways

1976-77	$ 1,000,000
1977-78	$ 1,000,000

The $1,000,000 appropriation in each fiscal year 1976-77 and 1977-78 provides for the planning, land acquisition, and construction of bikeways and related facilities.

2f. Bureau of Vehicle Regulation

(Except Division of Water Enforcement)

1976-77	$ 3,606,600
1977-78	$ 3,268,000

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

3f. Energy Road Fund

1976-77	$ 12,000,000
1977-78	$ 13,000,000

These funds are appropriated to the Energy Road Fund. This fund shall be used for the construction or reconstruction, repair and maintenance of any public highway, road, street or bridge in "coal producing counties" as defined by law. Any balance remaining in the Fund at the close of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78.

TOTAL—DEPARTMENT OF TRANSPORTATION

1975-76	$ 694,700
1976-77	$ 24,279,100
1977-78	$ 24,200,200

PART II

TRUST AND AGENCY FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending June 30, 1977, and for the fiscal year ending June 30, 1978, all of the fees (which include fees for board and room, athletics, and student activities) and rental, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, Federal grants and other Federal funds received, contributions, income from investments and other miscellaneous receipts produced or received by any of the following agencies of the State Goverment, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Trust and Revolving, or an Agency Fund out of which shall be established separate Trust and Revolving or Agency Fund accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All funds received are appropriated and shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapters 12, 42, and 45.

In the event receipts received and credited to any Trust and Revolving or Agency Fund account during fiscal year 1976-77 or fiscal year 1977-78 and any balance forwarded to the credit of any such account from the previous fiscal year exceed the appropriation made by specific sum to said account for the fiscal year in which the excess occurs; provided, however, that with the exception of Federal grants and other Federal funds received, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the Executive Director of the Office for Policy and Management upon approval of the Secretary for Finance and Administration.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Trust and Revolving or Agency Fund account, through the Department for Finance and Administration, during the fiscal year ending June 30, 1977, and during the fiscal year ending June 30, 1978, all receipts placed to the credit of the Trust and Revolving or Agency Fund for such year, out of which has been established a Trust and Revolving or Agency Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Department for Finance and Administration. On or before the beginning of each fiscal year, each agency shall submit to the Department for Finance and Administration schedules showing estimated receipts and estimated expenditures by quarterly period.

A. GENERAL GOVERNMENT

1. AUDITOR OF PUBLIC ACCOUNTS

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2. SECRETARY OF STATE

Notwithstanding the provisions of KRS 271A.625, KRS 271A.630, KRS 271A.635, and KRS 56.300; all the operating receipts from all activities of the office of the Secretary of State shall be deposited in the State Treasury to the credit of the General Fund.

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3. CAPITAL PLAZA

a. Commercial Area
1976-77 .... $ 90,700
1977-78 .... $ 93,200

b. Recreation and Entertainment Facilities
1976-77 .... $ 126,500
1977-78 .... $ 130,200

c. Debt Service

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4. COUNTY COSTS

a. Expense allowances for Commonwealth Attorneys, County Attorneys, and County Judges.

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5. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

All funds received under the federal Public Works Employment Act of 1976, Title II, Public Law 94-369 are hereby appropriated to the Executive Department for Finance and Administration to be used for the maintenance of basic services in and among the various agencies, cabinets, and departments of state government. Any portion of these funds may be transferred to other major program areas or agencies of state government for the purpose of continuing basic services; provided, however, that such transfers shall be used to reduce General Fund appropriations and shall not in any way increase the expenditure level authorized by the General Assembly.

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6. KENTUCKY RETIREMENT SYSTEMS
1976-77 .... $ 587,400
1977-78 .... $ 617,900

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7. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

		1976-77	1977-78
a.	Board of Accountancy	$ 80,700	$ 84,300
b.	Board of Architects	$ 36,400	$ 36,400
c.	Board of Auctioneers	$ 27,000	$ 27,000
d.	Board of Barbers	$ 70,900	$ 74,900
e.	Board of Business Schools	$ 7,200	$ 4,500
f.	Board of Chiropractic Examiners	$ 20,800	$ 20,800
g.	Board of Dental Examiners	$ 70,800	$ 73,000
h.	Board of Embalmers and Funeral Directors	$ 34,000	$ 35,000
i.	Board of Engineers and Land Surveyors	$114,400	$112,500
j.	Board of Hairdressers and Cosmetologists	$261,600	$274,400
k.	Board of Hearing Aid Dealers	$ 15,300	$ 15,100
l.	Board of Landscape Architecture	$ 8,200	$ 8,200
m.	Board of Medical Licensure	$143,500	$145,500

n.	Board of Nurses	$269,900	$277,600
o.	Nursing Home Administrators Licensure Board	$ 24,500	$ 26,300
p.	Board of Ophthalmic Dispensers	$ 5,700	$ 5,800
q.	Board of Optometric Examiners	$ 11,700	$ 11,700
r.	Board of Pharmacy	$135,500	$142,300
s.	Board of Physical Therapy	$ 7,300	$ 8,100
t.	Board of Podiatry	$ 1,000	$ 1,000
u.	Board of Psychology	$ 14,700	$ 16,100
v.	Real Estate Commission		
	1. Examination and Licensing	$195,300	$205,000
	2. Real Estate Education Research and Recovery	$282,900	$286,400
w.	Board of Social Workers	$ 18,200	$ 23,400
x.	Board of Speech Pathologists and Audiologists	$ 4,000	$ 3,800
y.	Board of Veterinary Examiners	$ 11,000	$ 11,000
z.	Board of Watchmaking	$ 7,100	$ 7,100

8. DEPARTMENT OF PERSONNEL

9. DEPARTMENT OF REVENUE

10. COUNTY FEES

County Fees for the following counties: Jefferson, Kenton, Fayette, Campbell, and Daviess are for paying the various officials of each county enumerated, seventy-five percent (75 percent) of the fees provided by law to be paid, by the State, to these officials when their claims for fees have been presented to the Executive Department for Finance and Administration in the form and manner prescribed by law and approved by the Secretary of the Executive Department for Finance and Administration, and to pay the Fiscal Court of each of said counties twenty-five percent (25 percent) of said fees as required by KRS 64.350.

11. MILITARY AFFAIRS

12. COMMISSION FOR POST-SECONDARY EDUCATION

B. DEVELOPMENT

13. OFFICE OF THE SECRETARY

1976-77	$ 10,000
1977-78	$ 185,000

14. DEPARTMENT OF PARKS

1976-77	$ 15,324,500
1977-78	$ 16,082,200

15. DEPARTMENT OF AGRICULTURE

1976-77	$ 928,100
1977-78	$ 961,600

16. DEPARTMENT OF FISH AND WILDLIFE

17. DEPARTMENT OF COMMERCE

1976-77	$ 216,100
1977-78	$ 216,200

18. STATE FAIR BOARD

19. HISTORICAL EVENTS CELEBRATION COMMISSION

20. KENTUCKY CENTER FOR ENERGY RESEARCH

1976-77	$ 809,200
1977-78	$ 977,800

21. KENTUCKY INDUSTRIAL DEVELOPMENT FINANCE AUTHORITY

1976-77	$ 375,000
1977-78	$ 372,700

22. DEPARTMENT OF ENERGY

C. EDUCATION

23. ADVISORY COUNCIL FOR VOCATIONAL EDUCATION

24. OFFICE OF THE SECRETARY

25. ARTS COMMISSION

26. DEPARTMENT OF EDUCATION

a. General Administration and Support	1976-77	$ 4,794,200
	1977-78	$ 4,903,100
b. Education for Exceptional Children	1976-77	$ 1,874,900
	1977-78	$ 1,869,900
c. General Instructional Services	1976-77	$ 37,460,500
	1977-78	$ 37,779,200
d. Local Administration and Finance	1976-77	$ 890,200
	1977-78	$ 925,000
e. Pupil Personnel Services		
f. School Food Services	1976-77	$ 46,697,500
	1977-78	$ 48,983,300
g. Vocational Education	1976-77	$ 15,977,600
	1977-78	$ 16,077,400
h. Vocational Rehabilitation	1976-77	$ 20,914,700
	1977-78	$ 22,723,800

27. KENTUCKY EDUCATIONAL TELEVISION

28. HERITAGE COMMISSION

1976-77	$ 608,500
1977-78	$ 672,000

29. HISTORICAL SOCIETY

1976-77	$ 155,200
1977-78	$ 161,400

30. DEPARTMENT OF LIBRARY AND ARCHIVES

1976-77	$ 865,200
1977-78	$ 865,200

31. TEACHERS' RETIREMENT SYSTEM

32. COUNCIL ON PUBLIC HIGHER EDUCATION

33. HIGHER EDUCATIONAL ASSISTANCE AUTHORITY

34. COMMISSION OF HIGHER EDUCATION

35. UNIVERSITY OF KENTUCKY

36. UNIVERSITY OF LOUISVILLE

37. EASTERN KENTUCKY UNIVERSITY

38. WESTERN KENTUCKY UNIVERSITY

39. MOREHEAD STATE UNIVERSITY

40. MURRAY STATE UNIVERSITY

41. KENTUCKY STATE UNIVERSITY

42. NORTHERN KENTUCKY STATE COLLEGE

D. HUMAN RESOURCES

43. DEPARTMENT FOR HUMAN RESOURCES

a. Bureau for Social Insurance		
	1976-77	$441,136,200
	1977-78	$463,236,700
b. Bureau for Manpower Services		
	1976-77	$ 38,857,900
	1977-78	$ 42,418,500
c. Bureau for Health Services		
	1976-77	$ 36,910,900
	1977-78	$ 39,247,400
d. Bureau for Social Services		
	1976-77	$ 48,196,800
	1977-78	$ 48,677,700
e. General Administration and Support		
	1976-77	$ 16,850,300
	1977-78	$ 18,167,700

E. JUDICIARY

44. JUDICIARY

	1976-77	$ 2,320,600
	1977-78	$ 2,321,300

F. JUSTICE

45. DEPARTMENT OF JUSTICE

a. Bureau of Training		
	1976-77	$ 3,000
	1977-78	$ 2,000
b. Bureau of Corrections		
	1976-77	$ 2,556,100
	1977-78	$ 2,657,000
c. Bureau of State Police		
	1976-77	$ 225,100
	1977-78	$ 225,100
d. Public Defender		
	1976-77	$ 1,500
	1977-78	$ 1,500
e. General Administration and Support		
	1976-77	$ 10,690,700
	1977-78	$ 10,560,800

G. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

46. DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

a. Bureau of Land Resources

1976-77 .... $ 1,720,100

1977-78 .... $ 1,720,100

b. Bureau of Environmental Quality

1976-77 .... $ 2,408,500

1977-78 .... $ 2,437,500

H. PUBLIC PROTECTION AND REGULATION

47. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1976-77 .... $ 3,000

1977-78 .... $ 3,000

48. DEPARTMENT OF INSURANCE

49. DEPARTMENT OF LABOR

a. Occupational Safety and Health

1976-77 .... $ 2,955,500

1977-78 .... $ 3,135,500

b. Board of Claims

c. Special Fund

d. Elevator Safety

1976-77 .... $ 16,000

1977-78 .... $ 16,000

e. Workmen's Compensation Board

1976-77 .... $ 1,406,800

1977-78 .... $ 1,520,300

For the general operations of the Workmen's Compensation Board and administrative services provided to the Board through the General Administration and Support program.

f. Uninsured Employers Fund

50. DEPARTMENT OF MINES AND MINERALS

1976-77 .... $ 421,000

1977-78 .... $ 428,000 ----------

51. KENTUCKY QUARTER HORSE AND APPALOOSA COMMISSION

52. KENTUCKY STATE RACING COMMISSION

53. KENTUCKY HARNESS RACING COMMISSION

54. PUBLIC SERVICE COMMISSION

1976-77 .... $ 285,500

1977-78 .... $ 299,100 ----------

I. TRANSPORTATION

55. DEPARTMENT OF TRANSPORTATION

a. Air Transportation

1976-77 .... $ 206,000

1977-78 .... $ 216,500

b. Water Transportation

c. Rail Transportation

d. Mass Transportation

e. General Administration

f. Highways

1f. Bureau of Highways

2f. Bureau of Vehicle Regulation

1976-77 .... $ 1,308,800

1977-78 .... $ 1,297,200 ----------

PART III
TRANSPORTATION FUND

Monies in the Transportation Fund are appropriated for use by the Department of Transportation in its activities, functions, and duties performed by it as prescribed by law. The Transportation Fund shall consist of all the state revenues realized from fees, taxes, and license fees levied for state road purposes authorized by law, and any additional or other revenues, grants, or funds, including any amount which may be received from Federal aid, bond funds, General Funds appropriated, or any other sources pursuant to the provisions of KRS 177.030, made available for the construction or reconstruction of public roads or for any other of the activities administered by the Department of Transportation. Such receipts and revenues, and unappropriated surplus, together with any balance as of June 30, 1976, shall constitute the Transportation Fund for the fiscal years 1976-77 and 1977-78 respectively. An annual budget for each fiscal year shall be submitted by the Department of Transportation to the Executive Department for Finance and Administration for approval by June 1, 1976, for fiscal year 1976-77 and by June 1, 1977, for fiscal year 1977-78. The budget shall be based upon the most current State Road Fund estimates and Surplus, estimates of contractual and noncontractual Federal aid, General Fund appropriated, or funds and fees from any other source.

In the event the State Road Fund estimates are revised during the biennium the Department of Transportation shall submit its annual budget based upon the new estimates. These estimates are to be certified by the Commissioner of Revenue to the Secretary for Finance and Administration and upon the approval of the Governor the Secretary for Finance and Administration shall make the appropriate increases or decreases to the Department of Transportation's annual budget. If the State Road Fund estimates are increased or decreased during a fiscal year the Department of Transportation shall request from the Department for Finance and Administration with approval of the Governor authority to increase or decrease its annual budget in accordance with Part V, General Provisions, Section 9 of this Act. The following monies are appropriated from the State Road Fund.

A. TRANSPORTATION

1. DEPARTMENT OF TRANSPORTATION

a. General Administration

1976-77 .... $ 28,826,800
1977-78 .... $ 30,984,000

b. Highways

1b. Bureau of Highways

1976-77 .... $289,908,200
1977-78$297,801,000 There is appropriated in each fiscal year $7,000,000 for planning, land acquisition, and construction of the Jefferson Freeway.

1a. Rural Highways

1.County Road Aid. For construction, reconstruction, improvement, and maintenance of county roads and bridges the designated portion of all revenue received pursuant to KRS 138.220 and 138.565 shall be expended in accordance with KRS 177.320(2). These funds shall be distributed in accordance with the formula prescribed by the provisions of KRS 177.360.

2.Rural Secondary Roads. For construction, reconstruction, and maintenance of rural and secondary roads, the designated portion of all revenue received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended in accordance with KRS 177.320. These funds shall be distributed in accordance with the formula prescribed by the provisions of KRS 177.360. In addition, pursuant to the duties and responsibilities of county judges/executives associated with the administration of the local county road program, beginning January 1, 1978, the expense allowance for each county judge/executive shall be paid from the transportation fund. These expenses shall be paid from those appropriated funds for the rural secondary road revenue sharing program as provided in KRS 177.360 and KRS 67.

1b. Municipal Aid. For the construction, reconstruction, and maintenance of urban roads, streets, and bridges, the designated amounts received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended and distributed in accordance with KRS 177.365 through 177.368.

2. BUREAU OF VEHICLE REGULATION
(Except Division of Water Enforcement)

1976-77 .... $ 960,000
1977-78 .... $ 960,000

Total - Highways

1976-77 .... $290,868,200
1977-78 .... $298,761,000

Total - Department of Transportation

1976-77 .... $319,695,000
1977-78 .... $329,745,000

PART IV
CAPITAL CONSTRUCTION FUND
A. GENERAL FUND

1. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

1975-76	$ 44,326,600
1976-77	$ 64,507,500
1977-78	$ 27,252,600

Monies are appropriated for capital projects among those enumerated in the budget document and among those capital projects previously and partially funded by the 1974 General Assembly and those projects authorized by the 1976 Extraordinary Session, consisting of general construction, renovation, maintenance, improvements, property acquisition, major items of equipment, and administrative costs relating to the design, construction, and supervision of such capital projects, including, but not limited to, reclamation and industrial development projects, sewer projects and loans and grants in aid for capital purposes, the provisions of subsection (9) of KRS 45.040 notwithstanding, excluding however consumable and other usable supplies. Those projects set forth in the budget document under the sub-heading "colleges and universities" are subject to substitution upon action of the Council on Public Higher Education and subject to the approval of the Executive Department for Finance and Administration.

All monies transferred to the Executive Department for Finance and Administration for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Executive Department for Finance and Administration for capital construction.

If at the end of any fiscal year the monies and securities to the credit of the State Fire and Tornado Insurance Fund exceed $2,000,000 and if conditions with respect to life and fire safety in state properties are such as not to require the expenditure of all excess funds for improvements to said conditions, then the Secretary of the Executive Department for Finance and Administration, with the concurrence of the Commissioner of Insurance, shall determine the amount of such excess not so required and may authorize its transfer to the Capital Construction Fund, for expenditure in accordance with the provisions of Chapter 56 of the Kentucky Revised Statutes.

B. FEDERAL REVENUE SHARING

2. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

1976-77	$ 47,290,800
1977-78	$ 38,650,000

These funds are appropriated in accordance with the provisions of the federal State and Local Fiscal Assistance Act of 1972 and extension thereof. In the event these monies, or any portion thereof, are not made available to the Commonwealth, the Secretary of the Executive Department for Finance and Administration shall take appropriate action as required by Part V, General Provisions, Section 9 of this Act.

PART V
GENERAL PROVISIONS

1.

Nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1976, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42 and 45 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Executive Department for Finance and Administration. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which such appropriation may be expended shall be decided by the Secretary for Finance and Administration in accordance with the detailed estimates embodied in the Executive Budget 1976-78 and supporting work papers, as considered by the General Assembly, and the decision of the Secretary of the Executive Department for Finance and Administration shall be final and conclusive.

2.

In enacting this Appropriation Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3.

The Secretary of the Executive Department for Finance and Administration is authorized to establish a system or formula or a combination of both for pro-rating the administrative costs of the Department of Personnel, Executive Department for Finance and Administration, Treasury, and Law relative to the administration of programs in which there is joint participation by the State and Federal Governments for the purpose of receiving the maximum amount of participation permitted under the appropriate Federal laws and regulations governing such programs. Any reimbursements received from Federal Funds under this system or formula shall accrue to the General Fund and any system or formula for the proration shall be developed pursuant to the provisions of KRS 18.330.

4.

All continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act, notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, except as provided by Chapters 12, 42, 56, 152, 177 and 341 of the Kentucky Revised Statutes. All laws and portions of laws in conflict with any of the provisions of this Section, to the extent of such conflict, are hereby repealed.

5.

At such time as the Congress of the United States may enact into law a provision increasing or extending coverage of Federal minimum wage requirements now in effect, the Secretary of the Executive Department for Finance and Administration with the approval of the Governor, shall be authorized to pay, out of any available General Fund Surplus, to those state employees affected by such increase, an amount necessary to raise their respective compensation to a level consistent with the requirements of any such newly enacted provision increasing minimum wage requirements.

6.

Funds necessary to continue existing revolving accounts are appropriated for each fiscal year of the 1976-78 biennium. Any surplus funds in any such account at the closing of books for the fiscal year shall lapse. If any revolving account is abolished, or funds therein are lapsed during the 1976-78 biennium, such funds shall lapse to the General Fund if such General Funds were in part or in whole used to establish or sustain the revolving fund. If no general funds were involved, funds shall be returned to the original source.

7.

No state agency, cabinet, department, office or program shall incur any obligation against the general fund appropriations contained herein unless such obligation may be reasonably determined to have been contemplated in the Governor's budget proposal and is supported by appropriate work papers and other records pertaining thereto.

8.

Any appropriation made herein by the General Fund in anticipation of loss or reduction of Federal grants shall lapse to the General Fund to the extent such Federal funds otherwise become available.

9.

Whereas, inasmuch as the finances of the Commonwealth cannot be ascertained with absolute certainty at this time, and since the actual needs of each officer, cabinet, department, board, commission, institution, agency or other activity or subdivision of state government can only be anticipated and not finally determined by the General Assembly, and since the total amount of revenue accruing to the General Fund and to the Transportation Fund and accruing from various fees or from Federal funds from which appropriations are made can only be anticipated as being produced through existing laws and those that may hereafter be enacted, and recognizing the complex nature of the economy, it is the purpose and intention of this Act that the expenditures for each fiscal year shall not exceed the total financial resources accruing to any Fund, as defined in KRS Chapter 45, for the same fiscal year. As the conditions cannot be fully determined until after the adjournment of the 1976 General Assembly, and as the needs of each officer, cabinet, department, board, agency, commission, institution, subdivision or activity of state government, together with the total financial resources accruing to the General Fund and the Transportation Fund cannot be fully determined at this time, it is the intention and purpose of this General Assembly that the Secretary of the Executive Department for Finance and Administration, with the advice of the Commissioner of the Department of Revenue, upon approval of the Governor of the Commonwealth, is authorized, empowered and directed to ascertain and determine the needs of each officer, cabinet, department, board, commission, institution, subdivision, agency or other activity of state government and to ascertain the total financial resources anticipated to be accrued to the General Fund and the Transportation Fund of the Commonwealth, and upon the ascertainment and determination of said facts, he, the Secretary of the Executive Department for Finance and Administration, in the manner set forth as provided by general law, is authorized, empowered, and directed by the General Assembly to prevent an overdraft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing, according to needs, without discrimination, the appropriations herein made from the General Fund and Transportation Fund to each officer, cabinet, department, board, commission, institution, subdivision, agency or other activity in state government, provided, however, that the power invested shall not permit any reduction of the appropriations of any officer, cabinet, department, board, commission, institution, subdivision, agency or other activity of state government that will actually impair the necessary constitutional functions of such agency or activity, the operations and functions of which are determined to be necessary constitutional functions of state government.

10.

Chapter 55 of the 1976 Acts of the General Assembly is hereby repealed.

The Committee Amendment No. 1 to **HB 30** is as follows:

Amend printed copy of Committee Substitute for House Bill 30 on page 41, lines 1-4, delete in its entirely and insert in lieu thereof the following:

"To be used effective January 1, 1978, for compensation to local governments according to fair market rental value prescribed and administered by the Administrative Office of the Courts.

Fair market rental value shall be that amount agreed upon between the Administrative Office of the Courts and the local governing body providing the facilities and in the event an agreeable price cannot be reached the fair market rental value shall be determined by an independent, qualified appraiser acceptable to both parties."

The Committee Amendment No. 2 to the Committee Substitute for **HB 30** is as follows:

Amend printed copy of Committee Substitute for House Bill 30 on page 39, line 16, by deleting the amount "$5,847,700" and inserting in lieu thereof the amount "$5,673,200"; and on

Page 41, line 9, by deleting the amount "$18,793,600" and inserting in lieu thereof the amount "$18,619,400".

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration.

Highways and Traffic Safety: **HR 32.**

Calendar

SB 6, HB 43, SB 16, HR 25, SB 1, HB 47, SB 12, SB 18, and **HR 27** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

Representative B. Richardson moved that the rules be suspended to allow the privilege of the floor to Miss Kentucky, Victoria Jane Harned. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of acting on **HR 33** and having a call of the roll to show co-sponsors. Agreed.

Representative Vincent moved the adoption of the following **HR 33:**

HR 33, A RESOLUTION honoring and commending Victoria Jane Harned.
WHEREAS, Victoria Jane Harned of Leitchfield has been selected Miss Kentucky of 1976; and
WHEREAS, this outstanding young lady, competing in the Miss America Pageant, was honored with the Special Talent Award; and
WHEREAS, Victoria Jane Harned, musician, vocalist, cheerleader, student leader, Sunday School teacher, is a remarkable example of a young Kentuckian devoted to service to others through her leadership, vitality, and numerous talents;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this House of Representatives does hereby honor, commend, and bestow all its best wishes upon Victoria Jane Harned, Miss Kentucky of 1976.

Section 2. That Victoria Jane Harned be accorded the privilege of the floor on Thursday, December 16, 1976, and invited to address the House of Representatives.

Section 3. That the Clerk be directed to transmit a copy of this resolution to Victoria Jane Harned.

HR 33 was adopted by voice vote.

The following members voted to co-sponsor **HR 33:**

B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gray, Hancock, Head, Holbrook, Hopkins, Imes, Isler, Jones, Kenton, Kidd, Kleier, LeMaster, Little, Mann, Mason, McBee, McBride, McGill, Muncy, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, R. A. Turner, Wells, Wooden, Wright, Yates.

Representatives Vincent, Foster, and Craddock escorted Miss Harned into the Chamber.

Miss Harned addressed the House briefly.

The following members filed Floor Amendments to Bills and Resolutions: Representative B. Richardson, No. 1 to **SB 18;** Representative Bendl, No. 5 to **SB 12;** Representative Jones, No. 2 to **SB 18;** Representative B. Richardson, No. 2 to the Committee Substitute for **SB 15;** Representative Jones, No. 6 to **SB 12;** Representative Imes, No. 1 to the Committee Substitute for **HB 30;** Representative O'Brien, No. 2 to the Committee Substitute for **HB 20;** Representative Ackerson, No. 7 to **SB 12;** Representative Freeman, No. 6 to **SB 5.**

Representatives Brinkley and Craddock requested that their names be added as co-sponsors of **HB 4.**

Representative B. Richardson moved that the rules be suspended to allow remaining time in Motions, Petitions, and Communications to come immediately after Orders of the Day.

On the roll call the vote was yeas 62-B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Floyd, Foster, Guenthner, Hardwick, Head, Holloway, Imes, Isler, Kenton, Kidd, King, Lindsay, Little, Mann, May, McBee, McGill, McNutt, Muncy, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Stephens, Tobin, Thomas, J. R. Turner, R. A. Turner, Wells, Wible, Wright. Nays 9-Beshear, Blythe, Dawahare, Gray, Hancock, Holbrook, Kleier, McBride, Wooden.

The motion that the rules be suspended was adopted.

Representative B. Richardson moved that the remaining time in Motions, Petitions, and Communications come immediately after Orders of the Day. Agreed.

Orders of the Day

HB 23, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wible moved the adoption of the Committee Substitute for **HB 23.** Agreed.

Representative Wible moved that **HB 23,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 84-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, J. R. Turner, R. A. Turner, Vincent, Wells, Wible, Wooden, Wright. Nays 3-W. Allen, Beshear, Overstreet.

HB 23, by way of Committee Substitute, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 23**, by way of Committee Substitute, was passed be reconsidered and said moiton be postponed indefinitely. Agreed.

HB 35 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kleier moved the adoption of the following Floor Amendment No. 1 to **HB 35:**

Amend printed copy of House Bill 35 on page 1, line 18, by inserting after the comma and before the word "be", the words "*except as provided for in KRS 230.340,*";

And on page 2, after line 5, by inserting the following:

"Section 2. KRS 230.340 is amended to read as follows:

(1) The commission shall adopt rules governing and regulating mutuel wagering on thoroughbred races and Appaloosa races at a thoroughbred race meeting under what is known as the pari-mutuel system of wagering. [Such wagering shall be conducted only by a person licensed under KRS 230.210 to 230.360 to conduct a thoroughbred race meeting and only upon the licensed premises and on the dates and hours for which racing has been authorized by the commission.] The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) In no event shall the operation of a pari-mutuel system for betting where authorized by law constitute grounds for the revocation or suspension of any license issued and held under KRS 230.350.

(3) All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at thoroughbred race meetings shall be presumed abandoned within the meaning of KRS chapter 393, if not claimed by the person entitled thereto within two (2) years from the time the ticket became payable."

On the roll call the vote was yeas 12-W. Allen, Bendl, Bennett, Blythe, Dawahare, Hancock, King, Kleier, McBride, O'Brien, Priddy, Wible. Nays 55-J. Allen, Arnold, Beshear, Bevins, Blair, Blandford, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, Cyrus, DeMarcus, Deskins, Donnermeyer, Doss, Dunn, Floyd, Foster, Gray, Guenthner, Holbrook, Holloway, Hopkins, Imes, Jones, Kenton, LeMaster, Lindsay, Little, Mann, May, McBee, McNutt, Morris, Muncy, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siemens, Siler, Stephens, Tobin, J. R. Turner, R. A. Turner, Vincent, Wells, Wright.

The Floor Amendment No. 1 to **HB 35** was rejected.

Representative B. Richardson moved that **HB 35** be passed.

On the roll call the vote was yeas 68-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeMarcus, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Imes, Jones, Kenton, King, LeMaster, Lindsay, Little, Mason, McBee, McBride, McNutt, Morris, Muncy, O'Brien, Pearl, Richards, B. Richardson, P. Richarson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Tobin, J. R. Turner, R. A. Turner, Vincent, Wells, Wible, Wright. Nays 3-Kleier, Priddy, Schmidt.

HB 35 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 35** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 10, with Committee Subsitute and Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 10.** Agreed.

Representative Lindsay moved the adoption of the Committee Amendment No. 1 to the Committee Substitute for **HB 10.** Agreed.

Representative Lindsay moved the adoption of the Committee Amendment No. 2 to the Committee Substitute for **HB 10.** Agreed.

Representative Lindsay moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute for **HB 10:**

Amend printed copy of Committee Substitute for House Bill 10, page 12, line 14, by inserting after the word "*government*" the following: "*in*";

and on page 12, line 14, by inserting after the word "*whose*" the following: "*jurisdiction a*";

and on page 12, line 18, by inserting after the word "*for*" the following: "*a felony or*";

and on page 12, line 20, by inserting after the word "*government.*" the following: "*In the event the prisioner is charged with or convicted of violating a federal law, KRS 441.020 shall apply.*"

On the roll call the vote was yeas 24-J. Allen, W. Allen, Bennett, Blandford, Clapp, Denham, Deskins, Donnermeyer, Fitzgerald, Givhan, Guenthner, Hurst, Kenton, King, Lindsay, Little, Mann, Mason, McBee, B. Richardson, Stephens, Wells, White, Yates. Nays 59-Ackerson, B. Adams, A. S. Adams, Arnold, Bendl, Benson, Beshear, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Dietz, Doss, Dunn, Floyd, Foster, Gray, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Imes, Isler, Kidd, LeMaster, May, McBride, McGill, McNutt, Morris, Muncy, Overstreet, Pearl, Rattliff, Richards, P. Richardson, Sale, Siemens, Siler, Tobin, J. R. Turner, R. A. Turner, Vincent, Wible, Wooden, Wright.

The Floor Amendment No. 1 to **HB 10** was rejected.

Representative Lindsay moved that **HB 10,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 91-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-McNutt.

HB 10, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 10,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 16, with Committee Substitutes and Committee Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Substitute No. 2 to **HB 16.** Agreed.

Representative Clarke moved that **HB 16,** by way of Second Committee Substitute, be passed.

On the roll call the vote was yeas 93-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 16, by way of Second Committee Substitute, was passed.

Representative Clarke moved the adoption of the Committee Title Amendment to the Second Committee Substitute for **HB 16.** Agreed.

Representative Clarke moved that the vote by which **HB 16,** by way of Second Committee Substitute with Title Amendment, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 20, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wible moved the adoption of the Committee Substitute to **HB 20.** Agreed.

Representative Clarke moved that **HB 20,** by way of Committee Substitute, be passed.

Representative Beshear moved that consideration of **HB 20** be deferred and that it retain its position in Orders of the Day.

On the roll call the vote was yeas 41-Ackerson, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blume, Brown, Carpenter, Cooper, Crupper, Dawahare, DeFalaise, Doss, Dunn, Givhan, Gray, Guenthner, Hardwick, Holbrook, Holloway, Imes, Isler, Kidd, King, Kleier, LeMaster, May, McBee, McGill, Nett, Overstreet, Rattliff, Siemens, Siler, White, Wible, Wooden, Wright. Nays 42-B. Adams, J. Allen, W. Allen, Bevins, Blair, Boatwright, Brinkley, Clapp, Clarke, Craddock, Cyrus, Denham, Donnermeyer, Fitzgerald, Floyd, Foster, Head, Hurst, Jones, Kenton, Lindsay, Little, Mason, McBride, McNutt, Morris, O'Brien, Pearl, Richards, B. Richardson, Robinson, Sale, Schmidt, Stephens, Stewart, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, Yates.

The motion that consideration of **HB 20** be deferred and that it retain its position in Orders of the Day was rejected.

Representative Clarke moved that **HB 20,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 74-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Bevins, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Fitzgerald, Floyd, Foster, Givhan, Hancock, Hardwick, Head, Holbrook, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, McBee, McBride, McGill, McNutt, Morris, Muncy, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Stephens, Stewart, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wright, Yates. Nays 19-A. S. Adams, Bennett, Beshear, Blair, Blume, Cooper, Craddock, Dawahare, Doss, Dunn, Gray, Guenthner, Holloway, Kleier, Nett, Siemens, Siler, Tobin, Wooden.

HB 20, by way of Committee Substitute, was passed and the title agreed to.

Representative Clapp moved that the vote by which **HB 20,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **HB 8** and **HB 18.**

Orders of the Day (continued)

HB 4, with Committee Substitutes and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Second Committee Substitute to **HB 4.** Agreed.

Representative B. Richardson moved that **HB 4,** by way of Second Committee Substitute, be passed.

On the roll call the vote was yeas 90-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 4, by way of Second Committee Substitute, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 4,** by way of Second Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 30, with Committee Substitute and Committee Amendments to the Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Substitute to **HB 30.** Agreed.

Representative Clarke moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 30.** Agreed.

Representative Clarke moved the adoption of the following Floor Amendment No. 1 to **HB 30:**

Amend printed copy of Committee Substitute for House Bill 30 on page 39, line 16, by deleting the amount "$5,847,700" and inserting in lieu thereof the amount "$5,748,545";

and on page 41, line 9, by deleting the amount "$18,793,600" and inserting in lieu thereof the amount "$18,694,445";

and on page 40, line 12, by deleting "2,317,800" and inserting in lieu thereof "2,297,500".

Agreed.

Representative Clarke moved that **HB 30,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 87-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 2-W. Allen, Denham.

HB 30, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 30,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 27, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Isler moved the adoption of the following Floor Amendment No. 1 to **HB 27:**

Amend printed copy of House Bill 27 on page 2, line 20, by deleting the words "six months" by bracketing and insert in lieu thereof the words "*Five (5) years*"

Agreed.

Representative Isler moved the adoption of the Committee Amendment No. 2 to **HB 27.** Agreed.

Representative Isler moved that **HB 27,** as amended, be passed.

On the roll call the vote was yeas 84-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Isler, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, May, McBee, McBride, McGill, McNutt, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 2-Imes, Mason.

HB 27, as amended, was passed and the title agreed to.

Representative Isler moved that the vote by which **HB 27,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 42 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 42** be passed.

On the roll call the vote was yeas 74-Ackerson, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Isler, Jones, Kenton, Kidd, King, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 8-W. Allen, Bruce, Burnette, Denham, Imes, McNutt, Morris, Tobin.

HB 42 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 42** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HR 26 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 52-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Blume, Blythe, Boatwright, Bruce, Carpenter, Clapp, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Hancock, Head, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, May, McBee, McBride, McGill, McNutt, Morris, Richards, B. Richardson, Sale, Siemens, Stephens, Stewart, Tobin, J. R. Turner, Vincent, White, Wible. Nays 33-A. S. Adams, W. Allen, Beshear, Bevins, Blandford, Brinkley, Burnette, Clarke, Crupper, Denham, Foster, Freeman, Gray, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Imes, Little, Mann, Mason, Muncy, Overstreet, Pearl, Rattliff, Schmidt, Siler, Thomas, R. A. Turner, Wooden, Wright.

HR 26 was adopted and the title agreed to.

Representative B. Richardson moved that the vote by which **HR 26** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that the rules be suspended for Committees to meet on recess. Agreed.

Recess

Representative B. Richardson moved that the House recess for thirty minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Recess

Representative B. Richardson moved that the House recess for an additional fifteen minutes under the previous rule suspension. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day (continued)

SB 5, as amended by Floor Amendment 2, taken from Orders of the Day. Representative B. Richardson moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the following Floor Amendment No. 4 to **SB 5:**

Amend printed copy of Senate Bill 5 on page 2, line 26, after the word "enters" by inserting the words "a working place of";

and on page 2, line 26, after the word "mine" by inserting the words ", which means the area of a coal mine inby the last open crosscut,"

Agreed.

Representative J. Allen moved the adoption of the following Floor Amendment No. 5 to **SB 5:**

Amend printed copy of Senate Bill 5 on page 3, line 3, by deleting the period and inserting the following: ", and shall personally check the status of roof control, ventilation, rock-dusting, and cleanup."

Agreed.

Representative Freeman moved that the rules be suspended to offer Floor Amendment No. 6 to **SB 5.** Agreed.

Representative Freeman moved the adoption of the following Floor Amendment No. 6 to **SB 5:**

Amend printed copy of Senate Bill 5 on page 1 following the enacting clause by inserting the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

This Act shall be known as the Scotia Mine Act."

and on pages 1, 2, 3 and 4 by renumbering subsequent sections.

Agreed.

Representative Freeman moved that **SB 5,** as amended, be passed.

On the roll call the vote was yeas 94-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

SB 5, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 5**, as amended, was passed by reconsidered and said motion be postponed indefinitely. Agreed.

SB 10 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Romines moved the adoption of the following Floor Amendment No. 1 to **SB 10**:

Amend printed copy of Senate Bill 10 on page 4, line 4, by deleting "twenty-five (25)" and inserting in lieu thereof "ten (10)"

On the roll call the vote was yeas 12-Ackerson, Bendl, Bennett, Benson, Dunn, Gray, O'Brien, Pearl, Priddy, Rattliff, Romines, Yates. Nays 72-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Floyd, Foster, Freeman, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Kenton, Kidd, King, LeMaster, Little, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, Overstreet, Richards, B. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright.

The Floor Amendment No. 1 to **SB 10** was rejected.

Representative Wible moved that **SB 10** be passed.

On the roll call the vote was yeas 91-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-B. Richardson.

SB 10 was passed and the title agreed to.

Representative Wible moved that the vote by which **SB 10** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Motions, Petitions, and Communications

The following members filed Floor Amendments to Bills and Resolutions: Representative Wible, Floor Amendment No. 3 to Committee Substitute to **SB 15**; Representative O'Brien, No. 8 to **SB 12**; Representative Romines, No. 9 and No. 10 to **SB 12**.

The following members requested that their votes be recorded as follows: Representative Romines, change from "yea" to "nay" on passage of **HB 20**; Representative Givhan, "nay" on Floor Amendment No. 1 to

HB 35 and "yea" on the passage of **HB 35**; Representative Givhan, "yea" on the passage of **HB 23**; Representative Donnermeyer, "yea" on **HB 19, HR 16, HB 26, HB 14, HB 32,** and **HR 10**; Representative Burnette, change from "yea" to "nay" on passage of **HB 20.**

Representative Schmidt moved that the Rules be suspended to act upon a Resolution. Agreed.

Representative Schmidt moved the adoption of the following **HR 34:**

HR 34, A RESOLUTION to adjourn the House in memory of Eugene Ostertag.
WHEREAS, Eugene Ostertag, tireless public servant and loyal friend has departed this earthly life; and
WHEREAS, Eugene Ostertage served as a member of the House of Representatives of the Kentucky General Assembly during the 1960, 1962 and 1966 Sessions;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives pay tribute to the memory of Eugene Ostertag by adjourning in his honor this seventeenth day of December, 1976.

Section 2. That the Clerk of the House be directed to forward a copy of this resolution to the family of Eugene Ostertag.

HR 34 was adopted by voice vote.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 18** and **HB 8** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Motions, Petitions, and Communications (continued)

Representative B. Richardson moved that no other business be conducted on this day except Introduction of Bills and Resolutions and Report of Committees. Agreed.

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative Richardson moved that when the House adjourns, it do so by voice vote and until 12 noon on December 17, 1976. Agreed.

Representative B. Richardson moved that the rules be suspended to allow committees to meet at recess. Agreed.

Recess

Representative B. Richardson moved that the House recess for thirty minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative B. Richardson moved the House proceed with the business agreed upon. Agreed.

Introduction of Bills and Resolutions

HR 35, by Representative Guenthner, Holloway, Wright, Ackerson, Bendl, Bennett, Benson, Blume, Blythe, Dunn, Kidd, Kleier, McGill, Nett, O'Brien, Priddy, Romines, Siemens, Wooden, and Yates: A RESOLUTION relating to the preschool handicapped program in the Jefferson County School System.

HR 36, by Representative Hopkins: A RESOLUTION recommending continuation of the Governor's Commission on Workmen's Compensation.

Report of Committees

The Committee on Judiciary-Courts reported **SB 15,** with House Committee Substitute and Committee Amendment to the House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The House Committee Substitute for **SB 15** is as follows:

SB 15, AN ACT relating to circuit court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.220 is amended to read as follows:

(1) Any attorney or attorneys employed pursuant to the provisions of KRS 12.210 shall have authority to appear as the attorney for and to represent the department in the trial and argument of any cases and proceedings [in the Kentucky Court of Appeals and] in any and all [other] courts, and before boards, governmental agencies and tribunals in or out of this Commonwealth whenever such department or any officer or employe thereof is a party in interest or the official rights, powers or duties of the department or of any officer or employe thereof are directly or indirectly affected.

(2) Such attorney or attorneys may institute and prosecute any suits, motions, actions and proceedings necessary to cause the assessment of property, the collection of taxes, and the payment of all claims, accounts, demands and judgments of the Commonwealth, for the assessment or collection of which the department may be charged by law, and to take all necessary steps by suit, motion, action or otherwise to collect or cause to be collected and paid into the state treasury all such claims, demands, accounts and judgments. Any attorney or attorneys so employed shall attend to any litigation and legal business within and without the state, required of him or them by the terms of his or their employment; and also any litigation or legal business that any officer or employe of such department may have in connection with or growing out of his official duties or the official duties of the department; and he or they, upon the written request of any executive or ministerial officer of the department, shall give such department or officer his written opinion as to the duties of such officer and shall prepare proper drafts of all instruments of writing and perform such other legal services pertaining to the functions of the department as may be provided by the terms of employment.

Section 2. KRS 15.090 is amended to read as follows:

The attorney general may prosecute an appeal, without security, in any case from which an appeal will lie [to the Supreme Court] whenever, in his judgment, the interest of the Commonwealth demands it.

Section 3. KRS 15.210 is amended to read as follows:

Whenever the attorney general shall undertake any of the actions prescribed herein, he shall be authorized to exercise all powers and perform all duties in respect to such criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to the authority to sign, file and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all [magistrates,] grand juries, courts or tribunals.

Section 4. KRS 15A.070 is amended to read as follows:

The Bureau of Training shall establish, supervise and coordinate training programs and schools for law enforcement personnel, correction personnel, [court personnel] and any other justice or non-law enforcement related personnel as prescribed by the secretary.

Section 5. KRS 17.150 is amended to read as follows:

(1) Every sheriff, chief of police, coroner, jailer, judge, [magistrate,] prosecuting attorney, court clerk, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital or institution for the retarded; state police, state fire marshal, board of alcoholic beverage control; department for human resources; department of transportation; bureau of corrections; and every other person or criminal justice agency, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the department, shall:

(a) Install and maintain records needed for reporting data required by the department.

(b) Report to the department as and when the department requests, all data demanded by it except that such reports concerning a juvenile delinquent shall not reveal his or his parents' identity.

(c) Give the department or its accredited agent access for purpose of inspection.

(d) Cooperate with the department to the end that its duties may be properly performed.

(2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection providing prosecution is completed or a determination not to prosecute has been made. However, portions of such records may be withheld from inspection if such inspection would disclose:

(a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;

(b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;

(c) Information which may endanger the life or physical safety of law *e* [i]nforcement personnel; or

(d) Information contained in such records to be used in a prospective law enforcement action.

(3) When a demand for the inspection of such records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.

(4) Centralized criminal history records are not subject to public inspection. Centralized criminal history records mean information on individuals collected and compiled by the department of justice from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom to include sentencing, correctional supervision and release. Such information is restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the department of justice. Criminal justice agencies shall retain such documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

(5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.

(6) The secretary of justice shall adopt such regulations as are necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of such information based upon recommendations submitted by the commissioner, bureau of state police.

Section 6. KRS 18.260 is amended to read as follows:

(1) No disbursing or auditing officer of the Commonwealth shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the classified or unclassified service unless the payroll voucher or account of such pay bears the certification of the commissioner, or of his authorized agent, that the persons named therein have been appointed and employed in accordance with the provisions of KRS 18.110 to 18.360 and the rules, regulations, and orders thereunder. The commissioner may for proper cause withhold certification from an entire payroll or from any specific item or items thereon. The commissioner may, however, provide that certification of payrolls may be made once every six (6) months, and such certification shall remain in effect except in the case of any officer or employe whose status has changed after the last certification of his payroll. In the latter case no voucher for payment of salary to such employe shall be issued or payment of salary made without the further certification of the commissioner.

(2) Any citizen, including public officers, may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of KRS 18.110 to 18.360, rule, regulation or order thereunder. Any sum paid contrary to any provision of KRS 18.110 to 18.360 or of any rule, regulation, or order thereunder may be recovered in an action maintained by any citizen, from any officer who made, approved, or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the treasury.

(3) Any person appointed or employed in contravention of any provision of KRS 18.110 to 18.360 or of any rule, regulation, or order thereunder, who performs service for which he is not paid, may maintain an action against the officer or officers, employe or employes, who purported so to appoint or employ him, to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No such officer or employe shall be reimbursed by the Commonwealth at any time for any sum paid to such person on account of such services.

(4) If the commissioner wrongfully withholds certification of the payroll voucher or account of any employe, such employe may maintain a proceeding in the *circuit* court [s] *in the county in which he resides* to compel the commissioner to certify such payroll voucher or account.

Section 7. KRS 27A.210 is amended to read as follows:

(1) The following books and records shall be maintained by the state law library:

(a) All copies of volumes 1 to 77 of the Kentucky Reports;

(b) Twenty-five (25) copies each of volumes 78 to 314 of the Kentucky Reports;

(c) Six (6) sets each of all future publications of the journals and acts of the general assembly; and

(d) Two (2) sets of the official Kentucky Statute publications.

(2) The state law librarian shall arrange with the proper official of each state of the United States and of the United States and its territories for the exchanges of the statutes and the acts of the legislatures of each state and of congress. When an exchange is agreed upon, the state law librarian shall send to such officer one (1) copy of the acts of the general assembly and one set of statutes as soon as they are ready for distribution.

(3) Copies of acts, statutes and other materials required to be kept by the state law librarian and to be made available for exchange shall be furnished to the state law librarian, without charge, by the agency or official responsible for the distribution of same.

(4) The state law librarian may arrange for the distribution or disposal of materials held by the state law library upon concurrence of the administrative assistant to the chief justice responsible for law library operations.

(5) The state law librarian may acquire, by purchase, exchange, donation, or otherwise, such books and other materials as he deems suitable for the holdings of the state law library.

(6) The state law librarian may, with the concurrence of the administrative assistant to the chief justice responsible for law library operations, sell such surplus books in the state law library as have a market value, collect the funds received therefor, and deposit them in the "State Law Library Surplus Books Fund," which is hereby created in the state treasury. The "State Law Library Surplus Books Fund" shall not lapse. The state law librarian may reinvest such funds in other books and materials that he deems suitable for the holdings of the state law library. The provisions of KRS 45.360(7) concerning the powers and duties of the executive department for finance and administration shall not apply to sales made by the state law librarian hereunder.

(7) The state law librarian may, with the concurrence of the administrative assistant to the chief justice responsible for law library operations, offer and provide technical and other assistance to county law libraries and to other publicly funded law libraries.

(8) The state law librarian may, upon the request of a county law library or other publicly funded law library and with the concurrence of the administrative assistant to the chief justice responsible for law library operations, purchase books, supplies, or other materials for such library. The funds used for such purposes shall be those of the county law library or other publicly funded law library.

(9) [(6)] The state law librarian shall issue, with the concurrence of the administrative assistant to the chief justice responsible for law library operations, regulations for the operation, management, and lending policy of the state law library.

Section 8. KRS 31.030 is amended to read as follows:

The duties of the Office of Public Defender shall include, but are not limited to:

(1) Administering the statewide public defender system created by this chapter or by any other appropriate legislation or court decision;

(2) Providing technical aid to local counsel representing indigents;

(3) Assisting local counsel on appeals or taking appeals for local counsel, in the same manner as such appeals for the Commonwealth are presently handled by the Attorney General;

(4) Developing and promulgating standards and regulations, rules, and procedures for administration of the defense of indigent defendants in criminal cases which the public defender, statutes, or the courts determine are subject to public assistance;

(5) Appointing district public defenders;

(6) Reviewing local plans for providing counsel for indigents;

(7) Conducting research into methods of improving the operation of the criminal justice system with regard to indigent defendants and other defendants in criminal actions;

(8) Issuing such rules, regulations, and standards as may be reasonably necessary to carry out the provisions of this chapter, the decisions of the United States Supreme Court, the decisions of the Kentucky *Supreme Court,* Court of Appeals, and other applicable court decisions or statutes; and

(9) Do such other things and institute such other programs as are reasonably necessary to carry out the provisions of this chapter, or those decisions or statutes which are the subject of subsection (8) of this section.

Section 9. KRS 34.310 is amended to read as follows:

(1) The members of the judicial retirement and removal commission to be selected from among the judges of the Court of Appeals, the circuit judges, and the district judges, shall be selected according to rules promulgated by the Supreme Court.

(2) The member of the commission to be appointed by the governing body of the Bar shall be appointed according to rules promulgated by the Supreme Court.

(3) The members of the commission appointed by the governor shall include one (1) person from each of the two (2) political parties of the Commonwealth having the largest number of registered voters.

(4) All members of the commission shall serve until their successors are elected or appointed, as the case may be.

Section 10. KRS 34.330 is amended to read as follows:

In the exercise of its powers and duties, the judicial retirement and removal commission may administer necessary oaths, take testimony under oath, compel the attendance of witnesses, and compel the production of records and other evidence. *If any witness refuses to testify concerning any matter on which he may lawfully be interrogated, any circuit court judge, on application of the commission may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court.*

Section 11. KRS 39.412 is amended to read as follows:

(1) The owner of property seized, taken or condemned may appeal from the award of the board of claims to the circuit court of the county wherein he resides [if the amount in controversy, exclusive of interest and costs, is over twenty-five dollars ($25.00) or to the quarterly court of the county wherein he resides in other cases]. The Rules of Civil Procedure shall, so far as applicable, govern the procedure on appeal but the action shall be tried according to the practice prescribed for the trial of jury cases.

(2) An appeal from the judgment may be taken to the Court of Appeals.

Section 12. KRS 43.070 is amended to read as follows:

(1) To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the auditor shall audit annually:

(a) The funds contained in each county's budget; and

(b) The books, accounts, and papers of all county clerks, circuit clerks, county judges, county attorneys, sheriffs, jailers, coroners [,] *and* constables [, and justices of the peace exercising criminal jurisdiction]; Provided, however that the auditor shall not conduct such an audit if the elected official notifies the auditor that he has employed a certified public accountant to audit the books, accounts, and papers of his office.

(2) The county shall bear one-half (1/2) of the actual expense of the audit conducted pursuant to paragraph (a) of subsection (1) of this section and shall bear the total actual expense of the audit conducted pursuant to paragraph (b) of subsection (1) of this section.

(3) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection (1) of this section, the auditor of public accounts shall bill the county for the expenses incurred pursuant to subsection (2) of this section. A copy of this bill shall be forwarded to the commissioner of the executive department for finance and administration. If the amount billed has not been paid within ninety (90) days from date of billing, the auditor shall notify the commissioner of the executive department for finance and administration and the commissioner of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 and 431.110 by the state to the county or counties. Deductions shall continue until the total amount due the auditor's office has been paid. All moneys received pursuant to this section shall be credited to the trust and agency account of the auditor of public accounts.

(4) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted to the commissioner of the executive department for finance and administration and the state treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the attorney general, whose decision shall be final.

Section 13. KRS 44.020 is amended to read as follows:

(1) Within *three (3) working* [twenty (20)] days after the *first and fifteenth of each month* [termination of each session of any court of the Court of Justice and each county court,] the clerk of *any court of the Court of Justice and the county court clerk* [the court] shall make out and certify an alphabetical list of all claims payable out of the state treasury that have been allowed by the court, and transmit the list to the executive department for finance and administration, and no warrant for any claims requiring the approval of a court shall be issued until the list has been received by the executive department for finance and administration. The alphabetical list of claims shall serve as a certified copy of orders of allowance by the court for each and every claim listed thereon, and notwithstanding any statutory provision to the contrary, a copy of the order of allowance shall not be required for any claim listed thereon before payment may be made unless deemed necessary by the executive department for finance and administration. The executive department for finance and administration shall keep a separate record of all claims allowed in each county, noting the number and amount of each warrant issued for the payment of such claims.

(2) The order of any court authorized by law to approve and allow fee-bills, settlements, credits, charges and other claims against the state treasury shall not be treated as a judgment, or made conclusive against the

state, but shall only be regarded as prima facie evidence of the correctness and legality of the fee-bill, settlement, credit, charge or claim. The executive department for finance and administration, if it believes such fee-bill, settlement, credit, charge or claim to be fraudulent, erroneous or illegal, may, upon the advice of the attorney general, refuse to pay and may contest the claim in the Franklin Circuit Court, which shall have exclusive jurisdiction of all actions against the executive department for finance and administration to compel the payment of claims against the state treasury.

Section 14. KRS 46.030 is amended to read as follows:

(1) Each circuit clerk [,] *and* each county clerk [, each judge of a county court or police court and each justice of the peace] shall keep a well-bound book in his office, and shall enter therein at the time it is receivable, or when received, all tax on suits and other money received by him for the state, showing of whom received, on what account, the amount received and the date. The books so kept shall at all times be open to public inspection.

(2) All county and district officers charged with the duty of collecting funds due the state shall keep a cash book and shall enter thereon, as collected, the amounts collected, from whom and on what account collected, and the date and amounts of payments into the state treasury.

Section 15. KRS 56.850 is amended to read as follows:

Except as may otherwise be provided by law with respect to the control of real property owned by the state, used by and in the custody of any state agency or institution, the executive department for finance and administration may adopt regulations for the control of vehicular and pedestrian traffic and parking of motor vehicles, bicycles or other vehicles, on, over and across the grounds appurtenant to any building or other facility owned by the state or any state agency. Such regulations may include provisions governing the use and operation of motor vehicles upon such state-owned property, including but not limited to, the establishment of speed limits, parking rules, and for the registration of motor vehicles for parking on real property of the state to which such regulations are applicable. Security officers employed by the department, or by any other state agency or instrumentality authorized by the department to enforce the regulations adopted by the department under this section, shall have authority to remove, or cause to be removed, at the owner's expense, any motor vehicle parked on the grounds of any state-owned building covered by such regulations, in a manner impeding or disrupting the orderly flow of traffic on such grounds or the movement thereon of an emergency vehicle, or in violation of any traffic control or parking regulation of the department. Moving violations of any traffic control regulation adopted under this section shall be cited and may be prosecuted in the *district* [county] court of the county in which such violation occurred. Speed limits and parking restrictions established by regulations adopted under this section shall be conspicuously posted on and around the grounds covered by such regulations.

Section 16. KRS 57.320 is amended to read as follows:

The state law librarian, under direction of the *Supreme* Court [of Appeals], shall purchase bound volumes and advance sheets of the opinions of the *Supreme Court and* Court of Appeals and furnish them for the use of the *Supreme Court,* Court of Appeals, each county law library, and each judge of a circuit court [of continuous session].

SECTION 17. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

If any judge of the Court of Justice fails to perform the duties of his office, the Chief Justice shall notify the judicial retirement and removal commission of the judge's failure, unless in his opinion the disability is temporary. Whenever the judicial retirement and removal commission suspends or removes a judge of the Court of Justice without pay, it shall send a certified copy of its order to the executive department for finance and administration and that department shall carry out the order of the commission.

Section 18. KRS 61.020 is amended to read as follows:

The following officers shall have commissions issued to them by the governor: secretary of state, auditor of public accounts, treasurer, commissioner of agriculture, superintendent of public instruction, justices of the Supreme Court, clerk of the Supreme Court, judges of the Court of Appeals, clerk of the Court of Appeals, railroad commissioners, judges of the circuit courts, district judges, county judges, [police judges,] Commonwealth's attorneys, justices of the peace, and all the officers of the militia of rank and grade higher than and including the rank and grade of captain.

Section 19. KRS 61.340 is amended to read as follows:

Upon the resignation, removal from office or expiration of the term of office of a *county or city* [court] clerk, he shall immediately, upon application, deliver to his successor, or such other person as the *city or county legislative body* [court] orders, all books, records and other papers belonging to his office, and for failure to do so he shall be fined one thousand dollars ($1,000) and imprisoned from one (1) to twelve (12) months.

Section 20. KRS 62.140 is amended to read as follows:

(1) Each [circuit clerk,] county clerk, jailer and sheriff whose fees are paid into the state treasury, and who has the bond required of him by law executed by an incorporated surety company authorized to do a surety business in Kentucky, shall have a claim against the state for the amount of the premium paid by him, payable as other claims are paid, but only if the fees theretofore paid into the state treasury by such officer are sufficient to pay the premium in addition to his other official expenses theretofore incurred that are entitled to be paid out of such fees. The amount of premium to be paid by the state shall be approved by the judge or court who approved the bond.

(2) Every claim made under this section for the payment of a premium on a bond shall be verified by affidavit of the officer executing the bond as principal.

Section 21. KRS 63.070 is amended to read as follows:

(1) In a proceeding for impeachment or removal by address, if the committee reports against the petition and the report is not overruled by the house petitioned, the petitioner shall be liable to witnesses and to the accused for the costs of investigation before the committee. These costs shall be taxed by the clerk of the house appointing the committee.

(2) In an impeachment proceeding prosecuted before the senate, if the accused is acquitted the petitioner shall pay the costs of the accused; and if the accused is convicted, he shall pay the petitioner the costs incurred in behalf of the prosecution. Costs mentioned in this subsection shall be taxed by the clerk of the senate.

(3) Costs taxed pursuant to this section may be recovered on motion, after five (5) days' notice, in a circuit [or county] court.

Section 22. KRS 63.075 is amended to read as follows:

In a proceeding for impeachment instituted by the house of representatives without a petition from any person, if the accused be acquitted he shall be entitled to his costs, to be taxed by the clerk of the senate against the Commonwealth. If the accused be convicted, he shall pay the costs, to be taxed by the clerk and recovered by motion by the attorney general, in the Franklin Circuit Court [at the first term thereof, without notice, or afterward on notice].

Section 23. KRS 63.180 is amended to read as follows:

(1) Any person serving as a nonelective peace officer or deputy peace officer in violation of the provisions of KRS 61.300 shall be subject to removal. The circuit court of the county in which such person is serving and the circuit court of Franklin County shall have concurrent jurisdiction of all proceedings for the removal of any such person. The proceedings shall be in equity and the procedure shall be as set forth in subsections (2), (3) and (4) of this section.

(2) The Commonwealth's attorney of the judicial circuit or the county attorney of the county in which such person is serving, the attorney general, or any three (3) or more citizens of said county may file a petition in equity setting forth the facts constituting a violation of the provisions of KRS 61.300. If instituted by the Commonwealth's attorney, county attorney or attorney general, the proceeding shall be in the name of the Commonwealth, and if instituted by three (3) or more citizens, it shall be in the name of such citizens as plaintiffs. A copy of the petition shall be served upon the person complained against, who shall have ten (10) days in which to answer.

(3) Thereafter the proceeding shall be heard and determined by the court [, either in term or in vacation,] as a proceeding in equity. The court [or the judge thereof in vacation] shall render a final judgment within sixty (60) days from the date the petition is filed, unless the court [or judge], for good cause shown, extends the time for the final hearing, but in no case shall it be extended beyond ninety (90) days from the date the petition is filed.

(4) If it appears upon final hearing that any nonelective peace officer or deputy peace officer is disqualified under the provisions of KRS 61.300, the court shall enter a judgment forthwith removing the officer from office.

Section 24. KRS 63.220 is amended to read as follows:

(1) A vacancy in the office of sheriff, coroner, surveyor, county clerk, county attorney, jailer, constable or property valuation administrator, shall be filled by the county court.

[(2) A vacancy in the office of circuit clerk shall be filled by the circuit judge of the judicial circuit.]

(2) [(3)] Appointments to fill vacancies under this section shall be until the successor is elected, as provided in section 152 of the constitution, and qualified.

SECTION 25. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The clerks of the Supreme Court, the court of appeals and the circuit courts shall collect a fee of two dollars ($2.00) for taking, copying or recording any bond.

(2) Such fee shall be deposited in the general fund of the state treasury.

Section 26. KRS 64.010 is amended to read as follows:

The clerk of the [Court of Appeals and the clerks of circuit courts and] county courts, as far as the same will apply, shall receive for the following services the following fees:

Issuing summons	$1.00
Each copy thereof	.50
Entering return thereon	.50
[Issuing order of attachment	1.00
Each copy thereof	.50
Entering return thereon	.50
Issuing order of injunction	1.00
Each copy thereof	.50
Entering return thereon	.50]
Issuing subpoena	1.00
(All of the witnesses living in the same county ordered to be summoned at the same time shall be included in one subpoena, and the fee therefor shall not be increased.)	
Issuing attachment for a witness	$1.00
[Issuing order of arrest	1.00
Each copy thereof	.50
Entering return thereon	.50
Issuing order of delivery	1.00
Each copy thereof	.50
Entering return thereon	.50
Issuing each writ of possession	2.00
Docketing an action, motion or proceeding	.50
Order assigning cases to a division of court	1.00]
Warning order by clerk	1.00
Order of clerk appointing warning order attorney	1.00
Issuing a rule	1.00
Each copy thereof	.50
Filing return on rule	.50
[Indorsing each step taken in an action on a "step sheet" or envelope in the file or on the rule docket	.50
Filing a pleading	.75]
Filing each exhibit or other paper not a pleading	.50
[Swearing, entering attendance and issuing certificates of attendance of witnesses, each witness	.50]
Each commission to take deposition	2.00
[Filing a deposition, to be charged but once in each case, and all those contained in one envelope to be counted as one	.75
Taking a recognizance of a party or witness	1.00
Entering or noting of record in order book each order or direction of the court, an order filing any pleading or other paper, each motion, demurrer, disposition thereof or ruling of the court or any other step taken, each	1.00
Copy thereof	.50
Attendance in court, upon each trial of an action, to be charged to each party for each trial	2.00
Attending by himself or by deputy and keeping order in the circuit court, to be paid out of the state treasury, for each day	6.00
Swearing a jury	1.00
Entering a judgment (other than equity action)	2.00
Each copy thereof	1.00
Entering or recording a judgment in an equity action, for every ten (10) words	.05
Taxation of costs of each party, to be charged to such party	1.50
Each copy of a taxation of costs of each party, if called for	.75
Filing copy of costs taxed in the case file	.50
Issuing an execution, with all indorsements thereon	2.00
Each copy of an execution with all indorsements thereon	1.25]

Recording an execution with indorsements, returns and all papers therewith, when real estate is sold, each ten (10) words	.05
[Copying a record for Court of Appeals or other purpose, each ten (10) words	.05]
Issuing a supersedeas	1.50
Each copy thereof	.50
Entering return thereon	.50
[Filing each transcript on appeal	.50
Entering satisfaction, release, or discharge of a judgment in whole or in part in court or on an order book, to be paid by the party procuring the same	1.00]
Copying a pleading or other paper, each ten (10) words	.05
[Indexing in plaintiff's and defendant's general index to suits, each name of parties to an action, to be charged for each listing and once in each case	.50
Indexing in defendant's index of executions of each name of parties to such execution, to be charged for each listing and for each execution issued	.50
Indexing in plaintiff's and defendant's index of judgments and orders of each name of parties to a judgment and order, to be charged for each listing and for each judgment and order	.50
Each order made by the clerk in vacation or made by the clerk when the court is not in vacation	1.00]
Each order in the county court	1.00
Each copy thereof when ordered	1.00
Probate of a will and certificate, including all services relating thereto	2.00
[Order granting an administration, or appointing appraisers of estate of any fiduciary	1.00
Taking a bond for any fiduciary	2.00
Certificate of administration or copy of it	.75
Issuing a writ of idiocy or lunacy	1.50
Recording each inquisition under same	1.50
Each copy of such inquisition when ordered	1.50]
Recording deed of trust or assignment for the benefit of creditors	3.50
Copy and certification of same when ordered	3.50
[Taking bonds required of the trustee or trustees in such cases,and including all services connected with it	3.20
Recording inventories required to be filed by the trustees, for every twenty (20) words	.05]
Each official certificate	1.50
Each bond required to be taken or prepared by the clerk	2.00
Taking a bond where no fee is fixed specially by law	2.00
Copy of any bond when ordered	1.50
Recording a bond, each bond	2.00
Receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, or other written instrument required by law to be done and certifying same	1.25
Recording powers of attorney, agreements, allotments of dower, division of land, wills, inventories, sale bills, settlements of fiduciary accounts, and certificates thereof, for every twenty words, or fraction thereof with minimum of two dollars ($2.00)	.06
Recording any report of a commissioner, surveyor, assignee, trustee, receiver, administrator, executor, guardian or other official or person, each ten words with minimum of one dollar ($1.00)	.05
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three pages	4.50
Exceeding three pages, for each page	1.50
Each additional certificate	.40
Each additional tract embraced in such deed, except town lots	.40
Copy of deed and certificate thereon	3.50
Recording the conveyance of personal or chattel property, taking the acknowledgment or proof thereof, and recording the orders and certificates, including the whole services	2.50
Each copy thereof	2.00
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed twelve hundred (1200) words	3.50
All over twelve hundred (1200) words, for every twenty (20) words	.05
Copy of same	3.00
Noting release of any lien, mortgage or redemption other than a deed of release	1.50
Receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien	3.50
Copying courses and distance of any deed, for each tract when demanded	.40
Recording plat laid down in the allotment of dower or division of land, for each tract thereof	.40

Recording or copying a plat or map of land, each lot	.40
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	6.75
Recording survey of a city, or any part thereof, or any addition to or extension of the boundary of a city	6.75
Every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed or discontinued, and by the applicant when it is not	1.00
Each order appointing a surveyor of road	1.00
Each copy thereof	1.00
(The last two (2) named to be paid out of the county levy.)	
Each order in proceedings for private passways, to be paid by applicant	1.00
Each copy of same, to be paid by applicant when ordered	1.00
Each report of list of surveyors of roads made and furnished to the grand jury, to be paid out of the county levy	2.50
Copying a surveyor's report, for every twenty (20) words or fraction thereof	.05
Administering an oath and certificate thereof	1.00
Issuing license for which no other fee is fixed by law	1.50
Marriage license, bond, certificate and recording	3.50
Each order and certificate allowing any claim against the county treasurer or state treasurer, where the claim exceeds five dollars ($5.00), to be paid by the claimant	.70
Recording post notice of an estray, waifboat or wreck, and advertising same	1.00
For filing, indexing and furnishing filing data for an original or continuation financing statement	3.00
For filing and indexing a financing termination statement and sending or delivering the original financing statement	.75
For filing, indexing and furnishing filing data about an assignment of a financing statement	.75
For filing and noting a statement of release of collateral under a financing statement	.75

Section 27. KRS 64.050 is amended to read as follows:

(1) When the term of any [circuit or] county clerk in counties of 75,000 population or over expires, or he dies or resigns, or is removed from office, he or his personal representative, trustee or committee, as the case may be, shall at once deliver to his successor in office all accounts, claims and fees due him in his official capacity. The successor shall have such fees, claims and accounts collected, or the executive department for finance and administration may, in its discretion, when said accounts, fees and claims are so delivered to the successor, appoint a person to collect them. If a collector is appointed, the successor shall at once, or when demanded by the collector, deliver to him all accounts, fees and claims uncollected. The successor or collector, as the case may be, shall, every sixty (60) days after receiving such accounts, fees and claims, report to the executive department for finance and administration, under oath, the amount collected thereon, and at the same time pay to the executive department for finance and administration the amount so collected, and shall continue to so report for three (3) years, unless the accounts, fees and claims are sooner collected.

(2) The executive department for finance and administration shall, upon each payment, draw a warrant on the state treasurer in favor of the person collecting, for an amount equal to 20% of the amount so paid in, which shall be the full compensation allowed for such collection.

(3) If the amount paid to any such clerk during his term or incumbency was not sufficient to pay the salaries and office expenses of the clerk, the executive department for finance and administration shall, out of the money collected and paid in as provided in subsection (1) of this section, pay to the clerk, or to the person entitled to receive the same, an amount sufficient to supply the deficit due for salaries and expenses, not exceeding 75% of the amount of fees accrued during his official term and which have been collected and paid to the executive department for finance and administration.

Section 28. KRS 64.070 is amended to read as follows:

(1) (a) Except as provided in KRS 441.050, an officer conveying a prisoner to the penitentiary shall be paid out of the state treasury ten cents (10¢) per mile, to be calculated by the nearest traveled route, for himself and for each guard employed, and shall be paid all actual necessary expenses for feeding, lodging and transporting the prisoner.

(b) Upon the production of the receipt of the superintendent of the penitentiary for the delivery of a prisoner, and a complete verified account of all expenses incurred, giving the names of the guards employed and distance traveled, the executive department for finance and administration shall audit the account of the officer for conveying the prisoner and if found correct draw a warrant for its payment.

(2)(a) For conveying a prisoner charged with a felony from one (1) county to another, an officer shall receive the same mileage and expenses allowed for conveying a prisoner to the penitentiary, to be paid out of the state treasury except as provided in KRS 441.040.

(b) *Upon the production of the receipt of the jailer of the county to which the prisoner is transferred, and a complete verified account of all expenses incurred, giving the names of the guards employed and the distance traveled, the executive department for finance and administration shall audit the account of the officer for conveying the prisoner and if found correct shall draw a warrant for its payment.* [The officer shall make a complete account of all expenses incurred, giving the names of the guards employed and distance traveled, which shall be verified before the circuit court and certified by the clerk to the executive department for finance and administration for payment.]

(3)(a) For arresting a person charged with a misdemeanor upon a warrant issued from another county, and conveying the person to the county jail of the county from which the warrant issued, an officer shall be paid out of the county treasury of such county the same mileage and expenses allowed for conveying a prisoner to the penitentiary.

(b) The officer shall present to the county judge of the county from which the warrant issued a verified and itemized statement of his mileage and expenses and the county judge shall direct the county treasurer to pay the same out of the county treasury.

(4) For conveying a prisoner charged with a felony to the jail of the county in which he was arrested an officer shall be paid out of the state treasury four cents (4¢) for each mile traveled in going and returning.

(5) The number of guards employed in conveying prisoners to the penitentiary or from one (1) county to another shall not exceed one (1) for every two (2) prisoners. Where only one (1) prisoner is conveyed no guard shall be employed, except that the circuit judge may appoint one (1) guard for each prisoner to the nearest railroad station.

Section 29. KRS 64.150 is amended to read as follows:

(1) Jailers shall be paid out of the county treasury, except as provided in subsection (2) of this section, the following fees for the following services:

Attending county [and quarterly] court per day (jailer shall be paid the fee for each day the court is in session)	$6.00
Furnishing fuel and lights to county [and quarterly] court, except as provided in KRS 67.150, a reasonable compensation, not exceeding, per day	$2.00
Putting a prisoner in irons, for an offense other than a felony or contempt besides the cost of irons	$ .50
Keeping and dieting prisoners in jail when confined for an offense other than a felony or contempt of court, per day	$4.75
Imprisoning and releasing a prisoner charged with a misdemeanor	$ .75

(2) Where the prisoner is confined for a breach of the bylaws or ordinances of a city, or for a violation of a statute where the city gets the benefit of the fine, the fees for keeping and dieting the prisoner and for imprisoning and releasing shall be paid by such city.

(3) Jailers shall be paid out of the state treasury the following fees for the following services:

Imprisoning and releasing a prisoner charged with a felony or contempt	$ .75
Keeping and dieting a prisoner charged with a felony or contempt, per day	$4.75
Putting a prisoner charged with a felony or contempt in irons, to secure his safekeeping in the jail, besides the cost of the irons	$ .50
Each day's attendance upon the circuit *or district* court *when accompanying prisoners to court*	$6.00
Furnishing fuel, light, and water to the circuit court, not exceeding, per day	$2.00

Imprisoning and releasing a prisoner for violation of his probation or parole; provided, however, the state granting probation or parole has executed a compact with the Commonwealth in accordance with KRS 439.560. The fees shall be the same as those charged for felony and contempt.

(4) For all other services performed by the jailer, he shall receive the same fees paid to sheriffs for like services.

(5) If a court of a county sends a prisoner to a jail of another county, then the county treasurer of the county from which the prisoner was sent shall pay the treasurer of the holding county any fees to which the jailer of the holding county is entitled to by law.

Section 30. KRS 64.190 is amended to read as follows:

Constables may collect for the following services the following fees:

Making arrests for violations involving a motor vehicle on the public highways	$0.50
[Serving a summons in any civil case, on each defendant, before a justice of the peace	.50
Serving a peace or search warrant, for each defendant	1.00
Levying an attachment	.50
Removing and taking care of any attached goods, livestock or other property taken under the attachment, a reasonable fee, to be allowed by the court.	
Summoning a garnishee	.50]

Taking up a vagrant	.50
[Summoning a witness	.20
Collecting money under execution or other legal process, taking a replevin or forthcoming bond, or for a stay of execution, the same commission that may be allowed a sheriff, and one per cent (1%) more.	
Collecting fee-bills, ten per cent (10%), to be deducted from the fee-bill.	
Summoning and attending a jury	1.00
Serving a notice on each person	.25]
Killing a mad dog	1.00
Killing and burying a distempered horse, ass or mule	3.00
Killing and burying any other cattle, per head	2.00
Altering a stud, jackass or bull	1.00
Any other services, the same fees allowed sheriffs for similar services.	

Section 31. KRS 64.250 is amended to read as follows:

(1) In counties containing a population of over 250,000, each justice of the peace shall be exclusively compensated for the performance of the duties of his office by a salary to be determined by the fiscal court at a rate no less than $9,600 per annum but no greater than $12,000 per annum, which shall be paid, in equal monthly installments, out of the county treasury.

(2) The provisions of subsections (2), (3) and (4) of KRS 64.200 shall apply to justices of the peace in counties containing a population of over 250,000, the same as to constables, and the recorder shall perform the same duties and functions in regard to moneys collected by or for justices of the peace as they are required by KRS 64.200 to perform in regard to moneys collected by or for constables.

[(3) The justices of the peace in said counties shall collect one dollar ($1.00) upon each original civil action commencing with original process in their courts, when the action is filed, and apply it as a credit upon the costs accruing in the action. Sums collected under this subsection shall be paid into the county treasury in the manner prescribed by KRS 64.200 for constable's fees.]

Section 32. KRS 64.258 is amended to read as follows:

(1) The fiscal court of any county may pay to each justice of the peace [or magistrate] within the county a sum not to exceed $100 per month in order to assist with the expenses of his office. This sum shall not be considered as salary within the meaning of KRS 64.255.

(2) The amounts paid to each justice of the peace [or magistrate] within the county shall be equal. No justice [or magistrate] shall be compensated in a greater or lesser amount than another justice [or magistrate]
.

(3) Said amount may be paid by the fiscal court only when the county possesses sufficient excess funds in its treasury to permit such payments. Payments shall not be made where the funds are not sufficient to pay all of the justices [or magistrates].

Section 33. KRS 64.345 is amended to read as follows:

(1) The [circuit clerk,] county clerk, sheriff and jailer of each county having a population of 75,000 or over shall receive an annual salary of $14,300.

(2) In counties containing a city of the first class and in counties having an urban county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by an order entered upon the order book of the [circuit court and] county court, and signed by the judge [s or a majority] thereof [of the courts]. In all other counties with a population of 75,000 or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the executive department for finance and administration.

(3) Each officer shall, on the first day of each month, send to the executive department for finance and administration a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the executive department for finance and administration the amount so collected or received. The executive department for finance and administration may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses, shall be paid semimonthly by the state treasurer upon the warrant of the executive department for finance and administration made payable to the officer. If seventy-five per cent (75%) of the amount paid into the state treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the executive department for finance and administration to any officer for salaries and

expenses exceed seventy-five per cent (75%) of the amount paid to the executive department for finance and administration by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the [circuit court and] county court and signed by the judge [s or a majority] thereof [of those courts]. In all other counties with a population of 75,000 or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the executive department for finance and administration.

Section 34. KRS 64.350 is amended to read as follows:

(1) In Counties having a population of seventy-five thousand (75,000) or more, the salaries of the *county* clerks [of the respective Courts thereof], of Sheriffs and Jailers and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining and operation of the offices, shall be paid out of the state treasury in amounts not to exceed seventy-five per cent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five per cent (25%) of the fees collected by the officers respectively, and received into the state treasury shall be paid in the manner provided by law for the payment of other claims against the state to the Fiscal Courts or urban county government of the respective Counties. The amount of twenty-five per cent (25%) of the fees collected by the officers respectively during each calendar year shall be paid to the Fiscal Courts or urban county government of the respective Counties by April 1 of each year succeeding the calendar year during which the fees were received by the executive department for finance and administration. After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the State Treasurer to the fiscal courts or urban county government of the respective counties, subject to the provisions of subsection (2) of this section.

(2) Notwithstanding the provisions of subsection (1), all sums received into the State Treasury and representing seventy-five per cent (75%) of the fees collected by the Sheriffs and Jailers specified in subsection (1) from any county in which a Metropolitan Correctional Services Department has been established shall be expended from the state treasury for the payment of the salaries and costs specified in subsection (1), and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs and jailers shall be paid by the state treasury to the fiscal court of the county in which a Metropolitan Correctional Services Department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the executive department for finance and administration.

Section 35. KRS 64.355 is amended to read as follows:

It is hereby declared to be the intent of the General Assembly that all fees of the office of [circuit clerk], county clerk, sheriff and jailer in counties having a population of 75,000 or more that are paid into the state treasury pursuant to the provisions of Section 106 of the Constitution of Kentucky are the property of the respective county and *these fees along with those collected by the circuit clerk* shall be computed as part of the county's total tax effort for the purpose of determining credit for any federally funded program.

Section 36. KRS 64.460 is amended to read as follows:

(1) Any person who pays any fee-bill or claim for fees which he believes contains an erroneous, improper or illegal item, or charge for services not actually rendered, or does not comport with the law in every respect, may hand the fee-bill to the circuit judge of the county in which he resides, [either in vacation or in term time,] and if there is any item in the fee-bill not authorized by law or if it does not comport with the law in every respect, the circuit judge shall [, at the term that he receives the fee-bill, or, if in vacation, at the next term in that county,] quash the fee-bill, and order the officer to repay the amount of the fee-bill to the person who paid it, and pay the costs of the proceeding.

(2) The judge shall enter a fine against the officer who issued the fee-bill, in favor of the person aggrieved, of not less than one dollar ($1.00) nor more than four dollars ($4.00) for each illegal item contained therein. The production of the fee-bill by the party charged shall be prima facie evidence of its payment.

(3) If the judge is of the opinion that there is no improper charge or illegal item in the fee-bill, he shall restore it to the person placing it in his hands, without costs or expense.

(4) A fieri facias, indorsed that no surety is to be taken, may issue in behalf of the person aggrieved for all the sums and costs adjudged under this section.

(5) Before any judgment is entered under the provisions of this section, the defendant in the proceeding must be given at least two (2) days' notice thereof by rule or otherwise.

Section 37. KRS 64.470 is amended to read as follows:

(1) If distraint is made upon the property of a person for a fee-bill that has any unjust or improper charge or item therein, or any item not made out in every respect agreeably to the requirements of law, the person may apply to the officer making the distraint for an exact copy of the fee-bill, and the officer shall make out and deliver the same to such person forthwith.

(2) Upon receipt of such copy, the person on whom the distraint is made may present it to the circuit judge of the county of his residence, and if, on inspection thereof, the judge is of the opinion that the fee-bill contains any unjust item, or item not made out in every respect according to the requirements of law, he shall, by written indorsement thereon, order the officer to stay proceedings under the distraint until the matter is determined in court.

(3) Upon the receipt of the order, the officer who made the distraint shall obey it, restore the property distrained to the owner, and return the fee-bill and copy with the judge's order thereon to the circuit clerk's office of his county, with the facts of the case indorsed on the fee-bill.

(4) The officer who issued the fee-bill shall be notified as directed in subsection (5) of KRS 64.460.

(5) [At the term of court at which the judge makes the order on the fee-bill, or, if made in vacation, at the next term thereof,] The court shall quash the fee-bill, and render judgment against the officer issuing the same for the amounts and in the manner stated in KRS 64.460, and execution may issue therefor.

Section 38. KRS 64.527 is amended to read as follows:

In order to equate the compensation of Commonwealth's attorneys, county judges, county attorneys, county clerks, [circuit clerks,] sheriffs, justices of the peace, county commissioners, coroners and jailers with the purchasing power of the dollar, the department of commerce shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than $7,200 per annum. The department of commerce shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the department of commerce, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the department of commerce.

Section 39. KRS 64.528 is amended to read as follows:

In order to equate the current rate of compensation of Commonwealth's attorneys, [circuit court clerks,] county court clerks, county judges, county attorneys, sheriffs, jailers, justices of the peace, [magistrates] and commissioners with the present value and purchasing power of the dollar, the court required by law to fix the compensation of the officials named in this section may, on or before September 1, 1974, adjust said officials' compensation within the limits set forth in Acts 1974, chapter 254 and may provide that said officials be entitled to the maximum amount of compensation for the entire 1974 calendar year.

Section 40. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (6) and (7) of this section, the fiscal court of each county shall fix the compensation of every county officer and employe except the officers named in KRS 64.535.

(2) The county attorney of each county shall receive a reasonable annual salary to be fixed by the fiscal court. In addition to such salary, the county attorney shall also be entitled to the statutory fees of his office, but his annual salary as fixed by the fiscal court plus the fees of his office shall not exceed $14,300.

(3) For the purposes of this section, [master commissioners and receivers in counties other than those containing a population of 75,000 or more, and] justices of the peace and constables in all counties, shall be deemed to be county officers, and deputies or assistants of county officers shall be deemed to be county employes, but employes of county boards or commissions which are now authorized by law to fix the compensation of their employes shall not be deemed to be county employes for the purposes of this section.

(4) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive, from both sources. The fiscal court may also fix the number of deputies and assistants, and, except as provided in subsection (8), the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office.

(5) In the case of county officers elected by popular vote, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the

term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(6) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county court clerk, sheriff, jailer, [master commissioner or receiver,] and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(7) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed two hundred sixty dollars ($260) per month. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed $9,600 per year, in counties containing cities of the second class it shall not exceed $9,000 per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; nor shall they receive any compensation for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

[(8) Circuit court clerks in counties other than those containing a population of 75,000 or more shall receive as compensation per year the maximum compensation allowed by law for circuit court clerks of this Commonwealth, if fees or funds for this purpose are sufficient. The first and second deputies shall be allowed to receive a salary not to exceed $9600 per year; and other deputies shall be allowed to receive a salary not to exceed $7200 per year. Each circuit clerk shall be allowed to fix the amount of the salary of each of his deputy clerks.]

Section 41. KRS 64.535 is amended to read as follows:

The county court clerk, [circuit clerk,] county judge, sheriff, county attorney, and jailer of each county shall receive a maximum monthly salary of one-twelfth (1/12) of $14,300, to be paid solely out of the statutory fees and salaries received by him during the calendar year.

Section 42. KRS 64.770 is amended to read as follows:

(1) The county officials' compensation board is hereby created and shall consist of the commissioner of the executive department for finance and administration, the state-local finance officer, the president of each of the state associations of [circuit court clerks,] county court clerks, county judges, county attorneys, *justices of the peace* [magistrates] and commissioners, sheriffs, jailers, and coroners, three members of the general assembly appointed by the legislative research commission, and two citizens of the Commonwealth appointed by the governor. The legislative members shall be appointed for terms of two years, unless their legislative term expires prior to the expiration of their term on the board, in which case a vacancy shall exist. Citizen members shall be appointed for terms of four years. The terms of the members representing the state associations shall be identical to the term of their office as president of the state association. Vacancies shall be filled for the unexpired portion of any term in the same manner as an original appointment. The commissioner of the executive department for finance and administration may, by written order filed with the chairman of the board, designate a deputy or other representative in his department to serve in his stead and to perform his duties as a member of the board in his absence. Such designation shall be deemed temporary and shall not affect the merit system or retirement rights of any person so designated.

(2) No salary or other compensation shall be allowed any member of the board, but each member may be reimbursed for actual and necessary expenses incurred in the performance of his official duties.

(3) The board shall select one of its members as chairman and another member as vice-chairman at its first regular meeting in each calendar year. The commissioner of the executive department for finance and administration shall be secretary of the board and his office shall be responsible for administering the clerical functions of the board.

(4) The board shall hold regular meetings at least once every three months. Special meetings may be called by the chairman or by five members of the board by delivery of a written notice to the office or residence of each member of the board at least ten days in advance of the date of any special meeting. Eight members of the board shall constitute a quorum at any meeting. The board shall establish bylaws for the conduct of its meetings and shall keep an accurate record of all its proceedings.

(5) The board may employ and compensate such personnel and consultants as may be necessary to effectuate the provisions of KRS 64.780.

Section 43. KRS 64.810 is amended to read as follows:

(1) Any county clerk, [circuit clerk,] county judge, county attorney, sheriff, jailer, coroner, *or* constable [, or justice of the peace exercising criminal jurisdiction] shall have the right to employ a certified public accountant to audit the books, accounts, and papers of his office in lieu of the audit conducted by the state auditor of public accounts required by KRS 43.070.

(2) If said official elects to exercise the right prescribed in subsection (1), then he shall:

(a) Notify in writing within thirty (30) days following the period to be audited, the fiscal court of his county and the state auditor of the name of the certified public accountant employed by said official to audit the books, accounts, and papers of his office; the auditor shall acknowledge, in writing, receipt of such notification, and approval of the use of the designated independent certified public accountant cannot be withheld unless such certified public accountant fails to conform to standard audit programs established for governmental accounting and other generally accepted accounting procedures as set forth by the Kentucky board of accountancy;

(b) Bear the cost of the audit from funds received or collected by him, and the cost of the audit shall be construed as an expense of his office;

(c) Within a reasonable time after the certified public accountant's examination, submit the accountant's written report to the governor, the general assembly, the attorney general, the county officials' compensation board, the state librarian, the state auditor of public accounts, and the fiscal court and county attorney of his county. In addition, the official shall send the report to a newspaper having general circulation in the county of the official, and the letter of transmittal accompanying the report shall be published in said newspaper in accordance with the provisions of KRS chapter 424.

(3) This section shall not be construed as eliminating the requirement that the books, accounts, and papers of the above named officials be audited yearly. This section shall not preclude the state auditor from reviewing the reports of the certified public accountant. After preliminary review, should discrepancies be found, nothing in this section or in KRS 43.070(b) shall be construed as precluding the auditor's office from making its own investigative report or audit to verify the findings of the independent certified public accountant's report. If such investigative audit be deemed necessary, the expenses to said county official, as directed by KRS 43.070(2), shall be construed as an allowable expense of that office.

Section 44. KRS 64.990 is amended to read as follows:

(1) If any *master* commissioner or receiver [to whom KRS 64.270 applies] fails to comply with *his duties as defined by appropriate court order* [KRS 64.270], he shall be fined not less than $100 nor more than $500, and, upon conviction, shall be removed from office.

(2) If any *master commissioner or receiver* [officer to whom the provisions of KRS 64.270 applies] knowingly omits or fails to report, as required *by court order or Supreme Court rule*, a correct statement of the amount required to be reported by those sections, or the amount of his office expenses, or knowingly makes or subscribes any false statement concerning the same, he shall be imprisoned in the penitentiary not less than one (1) nor more than five (5) years, and the judgment of conviction shall declare the office vacant.

(3) If any officer to whom KRS 64.050 applies, or his personal representative, trustee or committee, as the case may be, collects any fees, accounts or demands due him in his official capacity after the expiration of his term, or after he has resigned or died or vacated the office, or fails to deliver to his successor all the fees, claims and accounts due to him in his official capacity, he, or his personal representative, committee or trustee, as the case may be, shall be fined not less than $500 for each offense.

(4) If any successor or collector mentioned in subsection (1) of KRS 64.050 fails to make any report or pay the money collected to the executive department for finance and administration, as required by subsection (1) of KRS 64.050, he shall be fined not less than $500 for each offense. If he knowingly omits or fails to report a correct statement of all money received or collected, or knowingly makes or subscribes any false statement concerning the same, he shall be imprisoned in the penitentiary for not less than one (1) nor more than five (5) years.

(5) If any deputy or personal representative issuing a fee-bill pursuant to KRS 64.420 knowingly makes a wrong charge, or in any respect issues an illegal fee-bill, he shall be subject to the same penalties as an officer issuing such a fee-bill.

(6) Every fee-bill containing one (1) illegal charge, or which, in any respect, is not according to what is required by law, shall be void for the whole amount.

(7) Any officer who splits up and divides his services so as to make two (2) charges, when the law intends but one (1) charge or fee for the whole service, or who knowingly makes an illegal charge, or issues an illegal fee-bill, or collects or attempts to collect his fees twice for the same services, or by any indirection collects or attempts to collect more for his services than is allowed by law, shall be guilty of a high

misdemeanor and fined not less than $50.00 nor more than $200 and his conviction shall be prima facie evidence of his guilt in a proceeding to remove him from office.

(8) Any official who violates the provisions of KRS 64.820 to 64.850 shall be fined not less than $100 nor more than $500 and upon conviction shall be removed from office.

Section 45. KRS 66.210 is amended to read as follows:

No county, city or taxing district shall issue and offer to sell any of its bonds or obligations until the issuance thereof has been approved as provided in KRS 66.310, where applicable to a county, or by a *circuit* court of competent jurisdiction, declaring the bonds or obligations are based upon and cover a valid indebtedness of the county, city or taxing district within the constitutional limitation governing the creation of the indebtedness. Any bond sold, assigned or transferred without being so approved in advance of its issuance is void, and shall not thereafter, directly or indirectly, be assumed or paid by the county, city or taxing district.

Section 46. KRS 67.035 is amended to read as follows:

(1) [The provisions of KRS 28.030 to the contrary notwithstanding,] In all counties with a land area of more than 750 square miles, the sheriff [,] *and* county clerk [, circuit clerk, or any of them], when authorized by resolution of the fiscal court, may each maintain a branch office in any incorporated or unincorporated city of the county other than the county seat.

(2) The sheriff [,] *and* county clerk [and circuit clerk], when authorized by the fiscal court, may appoint one or more deputies for the branch office. The salaries to be paid said deputies together with the office rent and other expenses incidental to maintaining branch offices shall be considered as a part of the necessary expenses of the respective officers and shall be paid in the manner now provided by law for such expenses.

(3) Branch offices as authorized by the fiscal court may be used for the same purposes as those for which the offices at the county seat are used; Provided, however, That all records must be kept at the county seat. The period of time such branch offices shall be maintained, and the office hours, shall be fixed by the fiscal court. The compensation of the deputy in charge of the branch office shall be fixed in the same manner as the compensation of deputies serving at the county seat office. The sheriff [,] *and* county clerk [, and circuit clerk,] shall remain liable on their bonds for all funds collected by the branch offices.

Section 47. KRS 67.063 is amended to read as follows:

(1) All counties having three (3) county commissioners as provided in KRS 67.050 shall have their districts reapportioned not later than sixty days after the publication of the decennial census. The fiscal court shall, in open court, appoint three (3) competent citizens of the county over twenty-one (21) years of age, and residing in different portions of the county and in different county commissioner districts, as reapportionment commissioners to reapportion the county into three (3) county commissioner districts, as nearly equal in population as possible. When there is a tie vote in the appointment of any reapportionment commissioner, the tie shall be broken as provided by KRS 67.070 and 67.040. The reapportionment commissioners, before they proceed to act, shall be sworn to faithfully perform their duties. They shall receive out of the county treasury such compensation as may be fixed by the fiscal court.

(2) The reapportionment commissioners shall within twenty (20) days after they are sworn in lay off boundary lines of the district and shall establish the district boundary lines so that each district is an unbroken area and not split or divided by another county commissioner district. No boundary of a commissioner's district shall cross the boundary line of an election precinct. They shall file in the office of the county clerk a written report, showing the boundary of each district and the estimated population in each. At the next regular term of the county court commencing not later than thirty (30) days after the filing of the report, any citizen of the county may file exceptions, and the court shall fix a day not later than ten (10) days after the filing of the exceptions for *a hearing thereon* [the trial thereof]. *At the hearing* [On the trial] the court shall dispose of the exceptions and, by order entered of record, establish the reapportioned boundaries of the districts.

Section 48. KRS 67.130 is amended to read as follows:

The jailer of each county having a population of less than seventy-five thousand (75,000) and not having a city of the second class [or a circuit court of continuous session] shall be superintendent of the public square and of all county buildings at the county seat. The fiscal court of each of said counties shall annually appropriate a sum sufficient to purchase the labor and materials necessary to heat and light such property, including the jailer's residence if owned by the county, and to keep it in repair and in clean, comfortable and presentable condition. The sum so appropriated shall be expended by the jailer. The jailer shall bring civil action in the name of the county to recover possession of or for injury to or intrusion or trespass upon any such county property, and the net proceeds of any such recovery shall be paid into the county treasury.

Section 49. KRS 67.140 is amended to read as follows:

In counties containing a city of the second class wherein [all terms of] the circuit court *is always* [are] held at the county seat, the fiscal court shall have the care and custody of the courthouse at the county seat, the courtrooms and offices therein, and the public grounds adjacent thereto, and shall have authority and jurisdiction to levy and collect property taxes necessary for the purpose of keeping and maintaining the courthouse and grounds in proper condition and repair, to prevent injury thereto, to keep them in a proper state of cleanliness and sanitation, to provide heat and lights for them, and to provide sufficient water for the courts and offices therein.

Section 50. KRS 67.150 is amended to read as follows:

In counties containing a city of the second class, wherein [all terms of] the circuit court [s] *is always* [are] held at the county seat, the jailer is not required to attend to the county [or quarterly] court or to furnish fuel or lights for *that* [either of those] court [s], or to furnish fuel, light or water to the circuit court, and he shall not be allowed any fee for such services.

Section 51. KRS 67A.280 is amended to read as follows:

(1) No employe in the classified service of urban county government, after serving a probationary period provided by comprehensive plan or ordinance for his class, which shall not be in excess of six months, shall be dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law involving moral turpitude.

(2) Any person may prefer charges in writing against any employe by filing them with the appointing authority who shall communicate the charges without delay to the head of the executive unit in charge of personnel matters, and to the civil service commission. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employe whom he believes guilty of conduct justifying his removal or disciplinary action. Upon the filing of charges the secretary of the civil service commission shall notify its members and serve a copy of the charges upon the accused employe with a statement of the date, place and hour at which the hearing of charges will begin, this hearing not to be held within three days of the date of the service of charges upon the accused employe. The day on which the charges are served on the accused employe shall count as one of the days of notice. The person accused may in writing waive the service of charges and demand trial within three days after they have been filed with the secretary of the civil service commission.

(3) Upon the hearing the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges, provided, however, that the charges may be amended prior to trial, in which event the notice procedures hereinabove described shall be again complied with, and reasonable opportunity given for the preparation for trial on the amended charges.

(4) The civil service commission shall have the power to summon and compel attendance of witnesses at all hearings by subpoena issued by the secretary of that body and served upon the witnesses by members of the police department of the urban-county government or any officer authorized to serve subpoenas [, and the civil service commission shall have the power of a justice of the peace to punish for contempt]. *If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the commission may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court.* The accused employe shall have the right to have subpoenaed any witnesses he may desire, upon furnishing their names to the secretary. Subpoenas may be served on the request of the accused employe without charge. They shall be issued by the secretary and served by the police department. The action and decision of the civil service commission on the charges shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the body's decision.

(5) In cases where the head of the department or executive unit or the appointing authority has probable cause to believe an employe has been guilty of conduct justifying his removal or punishment he shall immediately suspend that employe from duty or from both pay and duty pending trial and the employe shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.

(6) The civil service commission shall punish any employe found guilty by reprimand or a suspension for any length of time not to exceed six months, or by reducing the grade, if the employe's classification warrants, or by combining any two or more of these punishments, or by dismissal. No employe shall be reprimanded, removed, suspended or dismissed except as provided in this section.

(7) Irrespective of the other provisions of KRS 67A.230 to 67A.310, an employe may be suspended by the head of the executive unit in which he is employed, or by the appointing authority, but only as provided by comprehensive plan or ordinance, for a period not exceeding 30 days in any twelve-month period, and may be reprimanded by such head or authority not more than twice in any twelve-month period. In such event, the actions of such head or appointing authority shall be subject to appeal to the commission. Such appeal shall be filed with the secretary of the commission within ten days of the action of the unit head or appointing

authority, and may be reviewed, reduced, or revoked by the commission after a hearing in which the unit head or appointing authority shall have reasonable opportunity under rules established by the commission, to support his charges. The grounds of suspension or reprimand under this subsection shall be only those set out by comprehensive plan or ordinance. The commission shall further have the power, in the event it finds that the unit head or appointing officer acted in error, to take such action as shall be necessary to compensate the appealing employe for such error. An appeal by an employe shall not suspend the operation of the action of the unit head or appointing authority pending action of the commission.

(8) Nothing herein shall prevent the comprehensive plan or ordinance from providing additional remedies and rights to employes.

Section 52. KRS 69.013 is amended to read as follows:

Each regular Commonwealth's attorney shall be, ex officio, a special prosecutor of the Commonwealth, and as such shall perform such duties and render such services, at such time and places, coextensive with the Commonwealth as may be required by the attorney general. The duties and services may include, but are not limited to, prosecution of or participation in action outside of his judicial circuit when directed by the attorney general and assisting the attorney general in preparation and presentation of the Commonwealth's position in *the appeal of* criminal cases [appealed to the Court of Appeals].

Section 53. KRS 69.060 is amended to read as follows:

Whenever [If] the Commonwealth's attorney is absent [at any term or part of a term of a circuit court], the circuit judge may appoint a suitable attorney to act as Commonwealth's attorney during his absence. The judge shall enter an order allowing the person appointed seven dollars ($7.00) per day, to be paid out of the state treasury on certificate of the circuit court clerk. In addition the pro tem attorney shall have one-half (1/2) the per centum allowed the Commonwealth's attorney. The judge shall not appoint an attorney to act in the place of the Commonwealth's attorney unless he and the county attorney are both absent, or are related to or counsel for the accused, except that in cases of felony the judge may appoint a pro tem Commonwealth's attorney even though the county attorney is present and not disqualified.

Section 54. KRS 70.140 is amended to read as follows:

The sheriff shall, by himself or deputy, attend and keep order in the [circuit, county,] fiscal *court and any court of the Court of Justice* [and quarterly courts] and shall obey the orders of said courts.

Section 55. KRS 70.200 is amended to read as follows:

(1) If the office of sheriff is vacant in any county [in which a circuit court is being or about to be held], the circuit judge may appoint a citizen of the county to act as elisor. The elisor shall hold his office for one (1) year or until a sheriff is qualified, unless removed by the circuit judge.

(2) The person appointed shall give bond, to be approved by the county judge, to cover all claims that may come to his hands. The elisor shall take the oath prescribed by law for sheriffs.

(3) The elisor may levy and collect executions, convey and sell land, and perform all acts and duties which are by law, devolved upon sheriffs, except that he shall not collect any kind of taxes or any judgment rendered upon any bonds or the coupons thereof issued or executed for any subscription to the capital stock of any railroad company or in aid of the construction of any railroad.

(4) He shall receive the same fees and compensation as the sheriff and be paid in the same manner.

Section 56. KRS 70.430 is amended to read as follows:

(1) Constables in counties containing a population of over 250,000 [shall promptly attend the sessions of the justices' courts held in their districts, act as bailiffs of said courts, preserve order in and near the courtrooms, and perform such other services incident to the speedy and orderly administration of the court's business as the justice of the peace requires, and shall execute and supervise the execution of the processes and orders of the justices' courts of their respective districts in particular and of all the justices' courts of the county in general.

(2)(a)] on or before the tenth day of each calendar month [each constable] shall make a report to the *county court clerk* [justice of the peace of his district] concerning the performance of the duties of office by himself and his deputies during the next preceding calendar month. [Each monthly report shall contain, under the heading of court attendance, a statement showing the dates of the sessions of court attended by the constable and the number of hours he was in attendance upon each date.]

(a) [(b)] Under the heading of civil matters, the report shall contain a statement showing the total number of each kind of civil processes and orders received, the total number of each returned executed, returned unexecuted, and not returned and not executed.

(b) [(c)] Under the heading of criminal matters, the report shall contain a list of the names and addresses of all persons for whom warrants of arrest have been obtained by the constable and his deputies,

noting the name of the officer obtaining each warrant, the name of the officer executing each warrant, and indicating the warrants returned executed, returned unexecuted, and not returned and not executed; a list of the names and addresses of all persons for whom warrants of arrest have been obtained by others and delivered to the constable and his deputies for execution, noting the name and address of the person obtaining each warrant; the name of the officer executing it, and indicating the warrants returned executed, returned unexecuted, and not returned and not executed; a list of the names and addresses of all persons arrested by the constable and his deputies without warrant, noting the name of the officer making the arrest and the cause of the arrest; a list of all the places for which search warrants have been obtained by the constable and his deputies, noting the name of the officer obtaining each search warrant, the name of the officer executing it, and indicating the search warrants returned executed, returned and unexecuted, and not returned, and not executed.

(c) [(d]) Under the heading of other matters, the report shall contain a brief but adequate report upon all other acts of the constable and his deputies performed under authority, or under color of authority, of office.

(2) [(3)] Each monthly report shall be subscribed and sworn to by the constable and such parts thereof as pertain to the acts of his deputies beyond his presence shall be deemed to be sworn to upon information and belief. [Each report shall be entered upon the records of his court by the justice of the peace, who] *The clerk* shall cause attested copies thereof to be promptly delivered to the county judge, the county attorney, and the attorney for the Commonwealth.

Section 57. KRS 70.610 is amended to read as follows:

When the *circuit* [county] judge believes that the safekeeping of a prisoner confined in his county under a charge of felony requires that a guard be kept over him, he shall make the order of record to that effect, and direct the number of guards to be summoned, by whom, and under whose control they shall be placed. [If the circuit court is in session in the county, the circuit judge shall exercise the power conferred upon the county judge by this section.] Each guard so summoned and performing duty shall be allowed one dollar ($1.00) per day, to be paid out of the county treasury.

Section 58. KRS 71.050 is amended to read as follows:

The jailer is an officer of the circuit, *district* and county courts for his county.

Section 59. KRS 71.990 is amended to read as follows:

A violation of KRS 71.020 shall constitute a misfeasance in office and the *district* [county] court may fine the jailer or he may be indicted therefor.

Section 60. KRS 72.060 is amended to read as follows:

The coroner shall swear witnesses and commit to writing the substance of the evidence given before the jury, designating each witness and his testimony. He shall recognize the witnesses examined before him to appear before the circuit court on *a day designated by the circuit clerk* [the first day of the next term], and shall forthwith return the recognizances with the inquest and testimony to the circuit court clerk's office.

Section 61. KRS 72.080 is amended to read as follows:

It shall be the duty of any coroner [,] *or district* [county] judge, [justice of the peace or a city judge in cities of the first or second class,] upon the receipt of an affidavit from any person stating that he believes and has reasonable grounds to believe that a person who is dead and buried died from poisoning or other illegal cause unknown, to have the body of the dead person exhumed and have the proper chemical or other examination made of the body in order to determine the cause of death, including, if he deems it necessary, a post-mortem examination or autopsy, and for that purpose he may employ a competent surgeon or physician, and if he suspects poisoning he shall employ a competent chemist to analyze the body or any part thereof.

Section 62. KRS 72.090 is amended to read as follows:

(1) A surgeon, physician or chemist employed under KRS 72.070 (1) or 72.080 shall receive a reasonable fee fixed by the fiscal court.

(2) *A coroner* [The officer] directing the investigation under KRS 72.080 shall receive per diem, as compensation for his services, the maximum fee prescribed by law for services required of and rendered by him by virtue of the office he holds.

(3) The fees prescribed in subsections (1) and (2) of this section shall be paid out of the county treasury [except in cities of the first or second class, where the autoposy was ordered by the county judge or city judge; the city is empowered in that case to pay for the cost involved]. The other costs of the inquest are payable out of the county treasury except where an inquest on an unburied body is held in a city of thirty thousand (30,000) or more inhabitants, in which case the other costs of the inquest shall be paid by the city.

Provided, however, that if there are insufficient funds available in the county treasury for the purpose of employing the physician, surgeon or chemist authorized to be employed by KRS 72.070 and 72.080, the secretary for human resources or his designee may, upon request of the coroner, pay for such post-mortem examination, out of funds of the department for human resources which are not otherwise appropriated, a sum not to exceed one hundred dollars for each examination.

Section 63. KRS 72.100 is amended to read as follows:

The coroner shall bury the person over whom an inquest is held, or deliver him to his friends if required. If any money or valuable property is found upon the person of an unknown deceased, the coroner [or justice] holding the inquest or any person who comes into possession of the money or property shall deliver it to the county judge of the county where the body is found, within ten (10) days. If the person is buried at the expense of the county a sufficient amount of the money or property shall be used to defray the costs of the burial. The remainder shall be retained by the county judge, and if it is not called for within the time prescribed by law by persons legally entitled thereto it shall be paid into the county treasury.

Section 64. KRS 74.075 is amended to read as follows:

The board of commissioners of any legally existing water district created under the authority of KRS chapter 74 may have the power to create a fire protection district where no fire protection district exists by filing a petition in the *county* [circuit] clerk's office of the county in which the greater part of the territory is located [, not less than twenty days before the commencement of the next regular term of court, and in courts of continuous sessions not less than twenty days before the first day of the next calendar month]. The petition shall conform with KRS 75.010 except as conflict exists with KRS 74.075 to 74.077; and the petition shall be ruled on as provided for in KRS 75.010.

Section 65. KRS 74.190 is amended to read as follows:

(1) Upon the first Monday after an instalment is due, the commission shall meet and ascertain the parties whose instalments are in default and shall within sixty (60) days issue warrants directing the sheriff or other collecting officer to collect the instalments that are in default. The collecting officer shall collect the instalments, with interest due on them and deferred instalments, together with a penalty of six per cent (6%), in the same way state and county taxes are collected, and the collecting officer shall settle with the commission within sixty (60) days from the time the instalments were certified to him.

(2) All lands upon which the instalments have not been collected at the end of sixty (60) days shall be advertised and sold by the collecting officer in the same manner as in the case of state and county taxes. The sale so made shall be subject to the future instalments of the assessments, and at the expiration of ninety (90) days from the date of the original certification of the instalments to the collecting officer, the collecting officer shall make final settlement with the commission and pay to them all the moneys in his hands. If the collecting officer fails to make a settlement, the commission may compel him to make the settlement by *order* [rule] against him issued by the *district* [county] court, after giving him five (5) days' notice in writing. In case any land is not purchased at the sale, the collecting officer shall bid in the land for the district and in his final settlement with the commission shall take credit therefor. The collecting officer shall certify each of the sales to the county court clerk as required in the sale of lands for state and county taxes, and the clerk shall record each sale in a book kept by him. For collecting the assessments certified to him the collecting officer shall be paid by the water commission the same fees allowed him for collecting state and county taxes and in the same manner. For recording the certificate of sale the clerk shall be allowed and paid the same fees allowed him by law for similar work in reference to state and county taxes.

(3) The owner of such real estate, or his representatives, heirs or assigns, shall have the right to redeem the land from the sale as is provided for the redemption of lands sold for state and county taxes, but only upon the same terms and conditions and within the same time as allowed in such case.

Section 66. KRS 74.990 is amended to read as follows:

Any collecting officer who fails to settle and pay any instalment of assessments with interest, as and when provided by KRS 74.190, shall be liable to the commission for the full amount certified to him, with interest. Such amount may be collected from such collecting officer by *order* [rule] issued against him by the *district* [county] court [in which the proceeding is pending], on five (5) days' notice in writing. The collecting officer shall be liable on his official bond for acts done under KRS 74.190, and for the faithful performance of his duties prescribed therein.

Section 67. KRS 75.010 is amended to read as follows:

(1) A petition for the establishment of a fire protection district or a volunteer fire department district signed by at least fifty-one per cent (51%) of the voters, as determined by the registration books covering the territory, and living within the boundary of the proposed fire protection district or volunteer fire department

district may be filed in the *county* [circuit] court clerk's office of the county in which the greater part of the territory is located [, not less than twenty (20) days before the commencement of the next regular term of court, and in courts of continuous sessions not less than twenty (20) days before the first day of the next calendar month]. The petition shall set out the metes and bounds of the proposed fire protection district or volunteer fire department district, the number of voters thereof, and other facts thought proper. Notice of the filing of the petition [and] the object thereof, *and the date set for a hearing thereon* shall be given by publication pursuant to KRS chapter 424, and by notices posted for at least ten (10) days *prior to the hearing* [before the commencement of the court], one (1) at the courthouse door, and three (3) others at public places within the bounds of the proposed fire protection district or volunteer fire department district. On the [second day of the term, and in courts of continuous session on the] day provided for in the notice, the court shall, if the proper notice has been given and publication made, and no written objection [,] *or* remonstrance [or defense] is interposed, enter *an order* [a judgment] establishing a fire protection district or a volunteer fire department district in accordance with the prayer of the petition, naming it, and describing the boundary thereof by metes and bounds. [Defense,] Objection or remonstrance may be made to the petition by any inhabitant of the proposed fire protection district or a volunteer fire department district, or any person owning property therein, and if [defense,] objection or remonstrance is made, the court shall hear and determine the same, and *enter an order* [render a judgment] establishing, or refusing to establish the fire protection district or volunteer fire department district as may seem proper. *Any aggrieved person may bring an action in circuit court to contest the decision of the county court.* [The pleadings and practice as herein provided shall be the same as in equity cases, as nearly as may be practicable, with right of appeal to the Court of Appeals in accordance with the Rules of Civil Procedure.]

(2) In no event shall any fire protection district or any volunteer fire department district include within its metes and bounds any territory at that time or thereafter included in any city of this Commonwealth which maintains a "regular fire department," and which city has paid its proportionate share of the indebtedness incurred while such territory was a part of that district.

Section 68. KRS 75.020 is amended to read as follows:

(1) The territorial limits of an established fire protection district, or a volunteer fire department district, as established under KRS 75.010 to 75.080, may be enlarged or diminished in the following way: The trustees of the fire protection district or of the volunteer fire department districts shall file a petition in the *county* [circuit] court clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greater part thereof, is located, [not less than thirty (30) days before the next regular term of said court and in courts of continuous session not less than thirty (30) days before the first day of a succeeding calendar month,] describing the territory to be annexed or stricken and setting out the reasons therefor. Notice of the filing of such petition shall be given by publication and posting in the same manner as provided for in KRS 75.010. On [the second day of the term, and in courts of continuous session on] the day fixed in the notice, the court shall, if the proper notice has been given, and the publication made, and no written [defense,] objection or remonstrance is interposed enter *an order* [a judgment] annexing or striking off the territory described in the petition. Fifty-one per cent (51%) or more of the freeholders of the territory sought to be annexed or stricken off may, [at any time before the next regular term of said court, and courts of continuous session] at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance be filed said clerk shall promptly give notice to the trustees of the fire protection district, or of the volunteer fire department district, and the court shall *hear and determine the same* [promptly set the case for a hearing]. If upon such hearing, the court finds from the evidence that a failure to annex or strike off such territory will materially retard the functioning of the fire protection district or the volunteer fire department district and materially affect adversely the owners and the inhabitants of the territory sought to be annexed or stricken off, it shall enter *an order* [a judgment], granting the annexation or striking off the territory. In the latter event, no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two (2) years. *Any aggrieved person may bring an action in circuit court to contest the decision of the county court.* [The pleadings and practice herein provided shall be the same as in equity cases, as nearly as may be practicable, with right of appeal to the Court of Appeals in accordance with the Rules of Civil Procedure.]

(2) The property in any territory annexed to a fire protection district or to a volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the fire protection district or the volunteer fire department district prior to the date of the annexation of such territory, except such indebtedness as represents balance owing on purchase price of fire fighting equipment. The property in any territory stricken off from a fire protection district or a volunteer fire department district by the incorporation of or annexation by a city of this Commonwealth shall not be relieved of liability of such taxes as may be necessary to pay its proportionate share of the indebtedness incurred while such territory was a part of that district. Territories stricken by action of the court under the provisions of subsection (1) shall be relieved of liability for all indebtedness incurred by the fire protection district or the volunteer fire department district.

(3) Any city that maintains a "regular fire department," and has either by incorporation or annexation caused property to be stricken from a fire protection district or a volunteer fire department district, may assume the liability of such taxes as may be necessary to pay the proportional share of the indebtedness incurred while such territory was a part of said district.

Section 69. KRS 76.160 is amended to read as follows:

(1) Subsections (2) and (3) have no application to construction subdistrict bonds or obligations. All references to revenues, rates, rentals, charges, or collections in subsections (2) and (3) exclude those derived from or made on account of construction subdistricts. District facilities referred to in subsections (2) and (3) exclude construction subdistrict facilities.

(2) In the event that the district shall default in the payment of principal of, or interest on, any of the bonds issued pursuant to KRS 76.010 to 76.210 after the said principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event that the district shall fail or refuse to comply with the provisions of KRS 76.010 to 76.210, or shall default in any agreement made with the holders of the bonds, the holders of twenty per cent (20%) in aggregate principal amount of the bonds then outstanding, by instrument or instruments filed in the office of the county clerk of the county embracing the district and proved or acknowledged in the same manner as a deed to be recorded, may apply to a judge [in the chancery branch] of the circuit court of the county, to appoint a trustee to represent all of the bondholders for the purposes herein provided. Upon such application such judge shall appoint a trustee and such trustee may, and upon written request of the holders of twenty per cent (20%) in principal amount of the bonds of the district then outstanding shall, in his or its own name, (a) by mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the bondholders, including but not limited to the right to require the district to collect rates, rentals, and other charges, adequate to carry out any agreement as to, or pledge of, the revenues of the district, and to require the district and its officers to carry out any other agreement with the bondholders and to perform its and their duties under KRS 76.010 to 76.210; (b) bring suit upon the bonds; (c) by action or suit in equity, require the district to account as if it were the trustee of an express trust for the bondholders; (d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of bondholders; (e) declare all bonds due and payable, and if all defaults shall be made good then to annual such declarations and its consequences.

(3) Any such trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right, upon application to the judge in the chancery branch, to the appointment of a receiver, who may enter upon and take possession of the facilities of the district, or any part or parts thereof, and operate and maintain the same, and collect and receive all rentals, rates, and other charges, and other revenues, of the district, thereafter arising therefrom, in the same manner as the district and its officers might do, and shall deposit all such moneys in a separate account and apply the same in such manner as such court shall direct. In any suit, action, or proceeding, by the trustee, the fees, counsel fees, and expenses of the trustee and of the receiver, if any, shall constitute disbursements taxable as costs. All costs and disbursements allowed by the court shall be a first charge on any revenue derived from the facilities of the district. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

Section 70. KRS 80.685 is amended to read as follows:

When the public officer has condemned as unfit for human habitation, occupancy or use, any structure, pursuant to the provisions of KRS 80.620 through 80.720, and has ordered same to be vacated, the public officer may, after ten (10) days' notice to the occupant or occupants thereof, apply to the *district court* [justice of the peace] for the district in which such structure is located, and obtain from such court an order of eviction against the occupant or occupants thereof, and the *sheriff* [constable] for the said district shall forthwith evict such occupant or occupants and his belongings from the said building.

Section 71. KRS 81.050 is amended to read as follows:

Proceedings to incorporate a city shall be commenced by a petition signed by at least two-thirds (2/3) of the voters living within the boundary of the proposed city, or, in case of an incorporated taxing district having by charter a grant of municipal powers and exercising them, by its petition accompanied by request for such action signed by a majority of the voters resident in the district. The petition must be filed in the circuit clerk's office of the county in which the greater part of the territory is located [, not less than twenty (20) days before the commencement of the next regular term of court]. *The petition shall be docketed for hearing not less than twenty (20) days from the date of filing the petition.* Notice of the filing of the petition and of its object shall be given by publication pursuant to KRS chapter 424. The petition shall set out the metes and bounds of the proposed city, the number of the voters in it and such other facts as may be thought proper *and the date of the hearing on the petition.*

Section 72. KRS 81.060 is amended to read as follows:

At the hearing [On the second day of the term] the court shall, if the proper notice has been given or publication made, and no defense is interposed, enter a judgment establishing a town in accordance with the prayer of the petition, naming it and describing the boundary thereof, by metes and bounds, and appointing therefor not less than five (5) trustees, a [police judge,] marshal and assessor, who shall hold their respective offices until the next election at which officers for cities and towns may be elected. Defense may be made to the petition by any inhabitant of the proposed town, and if defense is made, the court shall hear and determine the same, and render a judgment establishing or refusing to establish a town, as may seem proper. But if the court shall be satisfied that the population within the prescribed boundary is sufficient, and the proper notice or publication has been made or given, it shall have no discretion as to the establishment of the town. The pleadings and practice, except as herein provided, shall be the same as in equity causes, but no appeal shall lie from the judgment. Whenever any town shall be established in the manner above provided, the court shall in the judgment direct the clerk of the court wherein such judgment is entered to, not later than ten (10) days thereafter, certify a copy thereof to the secretary of state, whose duty it shall be to properly index and file the same as a permanent record in his office.

Section 73. KRS 81.210 is amended to read as follows:

Whenever a fourth-class city desires to annex any territory or to reduce the boundaries of the city, the city legislative body shall, by ordinance, accurately define the boundary of the territory proposed to be annexed or stricken off. The ordinance shall be published pursuant to KRS chapter 424. Within thirty (30) days after the adoption, publication and advertisement of the ordinance, a petition shall be filed in the circuit court of the county within which the city is situated, in the name and on behalf of the city, setting forth the passage, publication and advertisement of the ordinance and its object and purposes, together with an accurate description by metes and bounds of the territory proposed to be annexed or stricken from the city, and praying for a judgment to annex the territory or strike it from the city. [The petition shall be filed not less than twenty (20) days before the first day of the next succeeding term of the circuit court in that county.] Notice of the filing of the petition shall be given in the same manner as notice of passage of the ordinance. The circuit court shall not have jurisdiction of the proceedings unless the required publication or advertisement of the ordinance contains notice of the proposed proceedings in the court. If no defense is made *within thirty (30) days* [at the first term of the court] after the filing of the petition and notice and the court makes no order for granting future time for making defense, the court shall render judgment annexing or striking off the proposed territory.

Section 74. KRS 81.220 is amended to read as follows:

(1) [At the first term of the circuit court, or] Within the time fixed by the court by its order, any one or more of the resident voters of the territory proposed to be annexed or stricken off may file a defense in the proceeding, setting forth the reasons why the territory or any part of it should not be annexed to the city, or why the limits of the city should not be reduced. The case shall be tried by the court without the intervention of a jury. If the court, upon hearing, is satisfied that less than a majority of the resident voters of the territory sought to be annexed or stricken off have remonstrated against the proposed extension or reduction, and that the proposed extension or reduction of the limits of the city will be for the interest of the city and will cause no material injury to the owners of real estate in the limits of the proposed extension or reduction, the proposed extension or reduction shall be decreed. If the court finds that a majority of the resident voters in the territory to be affected, or the owners of the property if there are no resident voters, have remonstrated against the change, and that the change will cause material injury to the owners of real estate in the limits of the proposed extension or reduction, the extension or reduction shall be denied. Costs shall follow the judgment. An appeal shall lie from the judgment as in other cases.

(2) If the judgment is in favor of the city, the clerk of the court shall certify the judgment to the city legislative body, which shall enter the judgment on its records and shall thereupon, by ordinance, annex to or strike from the city the territory described in the judgment.

Section 75. KRS 83.660 is amended to read as follows:

(1) Unless otherwise provided by law, executive and ministerial officers of the city may be removed by the board of aldermen, sitting as a court, under oath, upon charges preferred by the mayor or by any two members of the board of aldermen, or, in case of charges against the mayor, upon charges preferred by not less than five members of the board of aldermen. No alderman preferring a charge shall sit as a member of the board of aldermen when it tries that charge.

(2) Any person removed from office under the provisions of this section may appeal to the circuit court and from there to the Court of Appeals. The appeal to the circuit court shall be taken and tried in the same manner as *civil cases are tried* [appeals from the quarterly court to the circuit court].

Section 76. KRS 84.020 is amended to read as follows:

The government of each city of the second class shall be divided into a legislative [,] *and* an executive [and a judicial] branch. No officer of one (1) [of these] branch [es] shall exercise any power properly belonging to [either of] the other [s], except as expressly directed or permitted by law.

Section 77. KRS 84.300 is amended to read as follows:

(1) The mayor shall:

(a) Cause the ordinances of the city to be executed and enforced;

(b) Cause all city officers and employes to discharge their duties faithfully and efficiently, and report to the general council if they fail to do so;

(c) Give the general council, from time to time, information in regard to the affairs of the city, and recommend to its consideration such measures as he deems expedient;

(d) Care for and superintend all public property of the city;

(e) Execute all contracts for the city that are authorized by ordinance, and see that all contracts with the city are completely performed;

(f) See that every officer required to give bond has duly given bond and qualified before he enters on the duties of his office;

(g) Fill by appointment all vacancies in city offices, except where otherwise provided by statute, subject to the provisions of section 152 of the constitution;

(h) Discharge such other duties as are required of him by statute or ordinance.

(2) The mayor may:

(a) Require from any executive or ministerial officer of the city written information upon any subject relating to the duties of that officer;

[(b) Discharge from confinement any person convicted and sentenced in the police court, and shall file with the board of aldermen a written statement of his reasons, which shall be open to public inspection;]

(b) [(c)] Abate and remove, in a summary manner and at the cost of the owner or occupant, any nuisance found by him, or declared by ordinance to exist, on public or private property, and for that purpose may enter upon and take possession of any property where the nuisance exists or is produced;

(c) [(d)] Administer oaths;

(d) [(e)] Appoint his own clerk, when so authorized by the general council, the compensation of the clerk to be fixed by the general council.

(3) The mayor shall keep his office at some convenient place in the city, to be fixed by ordinance.

Section 78. KRS 84.350 is amended to read as follows:

(1) At the regular election every four (4) years, beginning with 1895, the voters of the city shall elect a mayor, city treasurer, city attorney and assessor, each to hold office for four (4) years and until his successor is elected and qualified.

[(2) At the regular election every four (4) years, beginning with 1897, the voters of the city shall elect a judge of the police court.]

(2) [(3)] At the regular election each year the voters of the city shall elect one-half (1/2) of the members of the general council, for terms of two (2) years and until their successors are elected and qualified, to replace those whose terms expire in that year. In cities that were in the second class in 1894 the members whose terms will expire each year shall depend on the lot cast to determine the terms of those elected in 1895. In cities that are transferred to the second class the members whose terms will expire each year shall depend on a lot cast at the first meeting of the general council elected following the transfer, by which one-half (1/2) of the members elected at that election shall be determined to serve for one (1) year, and one-half (1/2) for two (2) years. Not less than one (1) member of the board of councilmen shall be elected from each ward in each year.

(3) [(4)] All city officers elected under this section shall enter upon the duties of their office on the first Monday in January succeeding their election.

(4) [(5)] At city elections all inhabitants of the city may vote who are eighteen (18) years of age or over, who are at the time citizens of the state of Kentucky and have been bona fide residents of the city for six (6) months previous to the election, and of the precinct in which they offer to vote for sixty (60) days preceding the election, and have registered as voters under the general law regulating registration.

Section 79. KRS 84.370 is amended to read as follows:

(1) Executive [,] *and* ministerial [and judicial] officers of the city, unless otherwise provided by law, may be removed by the board of aldermen, sitting as a *hearing board* [court] under oath, upon charges preferred by the mayor or any two (2) members of the board of councilmen, or, in case of charges against the mayor, upon charges preferred by the board of councilmen. A vote of two-thirds (2/3) of the aldermen is necessary to remove any person from office under this section. Any person so removed from office shall be ineligible to hold that office again during the time for which he was elected.

(2) Each member of the board shall have the power to administer oaths, and the board is authorized and empowered to subpoena and require the attendance of witnesses and the production by them of books, papers, records and other documentary evidence pertinent to such investigation. In the event that any person should fail or refuse to appear under such subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the board may report to the district court or any judge thereof, such failure or refusal, and apply for a rule, and the court, or any judge thereof, may, on such application of the board, compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court.

Section 80. KRS 85.030 is amended to read as follows:

The government of each city of the third class shall be divided into a legislative [,] *and* an executive [and a judicial] department. No person or group of persons belonging to one (1) department shall exercise any power properly belonging to [either of] the other [s], except as expressly directed or permitted by law.

Section 81. KRS 85.120 is amended to read as follows:

The common council, subject to the limitations imposed by the constitution and statutes, may:

(1) Contract debts, borrow money, and control the finances and property of the city;

(2) By ordinance, appropriate money and provide for the payment of the debts and expenses of the city;

(3) By ordinance, provide for inclosing, improving and regulating all public grounds belonging to the city, in or out of the city limits;

(4) Acquire the fee simple title to real estate by eminent domain proceedings in all cases where it is necessary to acquire real estate for public purposes, or to protect the city from public nuisance, the procedure to be the same as provided in the Eminent Domain Act of Kentucky;

(5) By ordinance, impose, for violation of city ordinances, any fine, forfeiture, imprisonment or penalty that may be imposed without an indictment by a grand jury, but not less than the fine, forfeiture, imprisonment or penalty imposed by statute for the same offense, and may provide, by ordinance, for the [recovery and] appropriation of such fines, forfeitures and penalties;

(6) By ordinance, make police regulations to secure and protect the general health, comfort, convenience, morals and safety of the public;

(7) Enact ordinances to carry out the full intent and meaning of the statutes relating to cities of the third class, and to accomplish the object of the incorporation of those cities.

Section 82. KRS 86.020 is amended to read as follows:

The government of each city of the fourth class shall be divided into a legislative [,] *and* an executive [and a judicial] department. Neither of these departments shall exercise any powers properly belonging to either of the other [s], except as provided by law.

Section 83. KRS 87.020 is amended to read as follows:

The government of each city of the fifth class not having the commission form of government shall be vested in a mayor, a city council consisting of six (6) members, [a police judge,] a treasurer, a city attorney, a clerk, an assessor, and such subordinate officers as are hereafter provided for.

Section 84. KRS 87.170 is amended to read as follows:

(1) The members of the city council [,] *and* mayor [and police judge] shall be elected by the qualified voters of the city. The members of the city council shall be elected at the regular November election every two (2) years, beginning with 1893, and shall hold office for two (2) years. The mayor [and police judge] shall be elected at the regular November election every four (4) years, beginning with 1893, and shall hold office for four (4) years. The members of the city council [,] *and* mayor [and police judge] shall take office on the first Monday in January following their election.

(2) The assessor, treasurer, clerk and city attorney shall be appointed by the city council for a term of two (2) years, but may be removed at the pleasure of the council. The city council may appoint, and fix the duties and compensation of, a poundmaster, superintendent of streets, city engineer, chief of fire department, city weigher, *and* city physician [and police court clerk], for terms of two (2) years, subject to removal at the pleasure of the council.

Section 85. KRS 87.210 is amended to read as follows:

Any vacancy occurring in any of the offices provided for in this chapter [, except in the office of police judge,] shall be filled by appointment of the city council.

Section 86. KRS 88.020 is amended to read as follows:

(1) A majority of the voters residing in a city of the sixth class may petition the circuit court of the county in which a greater part of the city is located asking that its charter be dissolved.

(2) The petition shall be signed by each petitioner, and filed in the office of the circuit court clerk [not less than twenty (20) days before the commencement of the next regular term of court]. The petitioners shall cause notice of the filing of the petition and the object thereof to be published pursuant to KRS chapter 424. The petition shall set out the metes and bounds of the city, the number of voters and inhabitants residing within the boundaries, and any other facts thought proper.

(3) Defense may be made to the petition by any voter of the town, and if a defense is made the court shall hear and determine the same and may render judgment dissolving and annulling the charter. The pleadings and practice, except as herein provided shall be the same as in equity case; and appeal shall lie from the judgment as in other civil actions.

(4) Whenever the charter of any town is dissolved in the manner hereinabove provided, the judgment shall direct the clerk of the circuit court wherein such judgment is rendered, to certify a copy of said judgment not later than ten (10) days thereafter to the secretary of state whose duty it shall be to properly index and file the same as a permanent record in his office.

Section 87. KRS 88.030 is amended to read as follows:

The government of each city of the sixth class not having the commission form of government shall be vested in a board of trustees, consisting of five (5) members, [a police judge,] a treasurer, a clerk, a marshal, and such subordinate officers as are hereinafter provided for.

Section 88. KRS 88.070 is amended to read as follows:

(1) The board of trustees may impose fines, imprisonment, penalties and forfeitures for violations of ordinances. No such fine or penalty shall exceed one hundred dollars ($100), and no such term of imprisonment shall exceed fifty (50) days.

[(2) The violation of any ordinance of the city shall constitute a misdemeanor, and may be prosecuted by the authorities of the city in the name of the Commonwealth, for the benefit of the city, or may be redressed by civil action.]

Section 89. KRS 88.180 is amended to read as follows:

(1) The members of the board of trustees [and police judge] shall be elected by the qualified voters of the city [. The members of the board of trustees shall be elected] at the regular November election every two (2) years, beginning with 1893, and shall hold office for two (2) years. [The police judge] *They* shall be elected at the regular November election every four (4) years, beginning with 1893, and shall hold office for four (4) years. The members of the board of trustees and the police judge shall take office on the first Monday in January following their election.

(2) The treasurer and clerk shall be appointed by the board of trustees for a term of two (2) years, but may be removed at the pleasure of the board.

(3) The board of trustees may appoint an assessor, a poundmaster, a superintendent of streets, a town engineer, a chief of fire department, a town weigher and a town physician, each of whom shall hold office for two (2) years, but may be removed at the pleasure of the board of trustees.

Section 90. KRS 89.030 is amended to read as follows:

(1) The sense of the voters of any city of the second, third or fourth class shall be taken on the question of organizing and being governed under the commission form of government, upon application to the county judge of the county in which the city is situated by written petition signed by a number of legal voters of the city equal to twenty-five per cent (25%) in cities of the second and fourth classes, or twenty per cent (20%), in cities of the third class, of the votes cast in the city at the last preceding general election. The county judge shall receive the petition, and at the next regular term thereafter make an order in his book directing an election to be held in the city at the next regular election that is held not earlier than sixty (60) days, in cities of the second, third and fourth classes, nor later than ninety (90) days, in cities of the fourth class, after the application is lodged with the judge, except that in cities of the second class the election shall not be held in the same year that the mayor [or police judge] is elected. The order shall direct the sheriff or other officer of the county who is appointed to hold the election to open the polls at each voting place in the city for the purpose of taking the sense of the qualified voters of the city on the question of whether or not they are in

favor of the organization and government of the city under the commission form of government.

(2) In cities of the second class the question to be submitted to the voters shall be:

“Are you in favor of the organization and government of the city of .... under the commission form of government“?

(3) In cities of the third class the question to be submitted to the voters shall be:

“Are you in favor of the organization and government of the city of .... under the commission form of government, under which the members of the board of commissioners shall each receive a salary of $.... per annum“?

(4) In cities of the fourth class the question to be submitted to the voters shall be:

“Are you in favor of the organization and government of the city of .... under the commission form of government, under which the salary of the mayor for the first term shall be $.... per annum, the salary of the police judge for the first term shall be $.... per annum, and the salary of each commissioner for the first term shall be $.... per annum“?

(5) The county clerk shall give to the sheriff of the county, or to such officer as may be appointed to hold the election, a certified copy of the order of the county court, as it appears on the order book, within five (5) days after the order is made. The sheriff or other officer shall have the order published pursuant to KRS chapter 424, and also advertise the order by handbills posted in conspicuous places in the city, for the same length of time that publication is required. The sheriff or other officer shall have the advertisement published and notices posted within seven (7) days after he receives the order of the county court. The election shall be held by the regular election officers.

(6) The board authorized to canvass election returns shall certify the result of the election to the clerk of the county court and to the clerk of the city. At the next regular term of court the county judge shall cause the certificate to be spread on the order book of the court. The entry of the certificate in the order book, or copy thereof, shall be prima facie evidence of the facts therein contained. In cities of the second class the entry of the certificate in the order book, or copy thereof, shall be conclusive evidence of the election and its result.

(7) If a majority of the votes cast are in favor of organizing and governing the city under the commission form of government, the certificate of the canvassing board delivered to the city clerk shall be spread upon the records of the city at the next regular meeting of the city legislative body, and thereupon the city shall be organized and governed by the provisions of KRS 89.040 to 89.290.

(8) Failure on the part of any ministerial officer to perform the duties required of him by this section shall not prevent the organization and government of the city under the commission form of government.

Section 91. KRS 89.040 is amended to read as follows:

If the vote at the election held under KRS 89.030 is in favor of the organization and government of the city under the commission form of government, all the present nonelective city offices, in cities of the second and third classes, and the office of member of the city legislative body, in cities of the second, third and fourth classes, shall, at the expiration of the year following the year in which the election is held, be ipso facto abolished. In cities of the second and fourth classes all of the elective city offices, except *that* [those] of mayor [and police judge], shall be ipso facto abolished at the expiration of the term of the present officers. In cities of the third class all the elective city offices, except those of mayor [, police judge] and city prosecuting attorney, shall be ipso facto abolished at the expiration of the year following the year in which the election is held on the question of adopting the commission form of government.

Section 92. KRS 89.050 is amended to read as follows:

(1) At the regular November election in the year following the year in which the election is held pursuant to KRS 89.030, two (2) commissioners shall be elected by the qualified voters in cities of the second and third classes, and four (4) commissioners shall be elected by the qualified voters in cities of the fourth class. In cities of the second and third classes the commissioners shall serve for terms of two (2) years, except that if the election on the question of adopting the commission form of government in a city of the third class was held in an odd year, the commissioners first elected shall serve for terms of only one (1) year. In cities of the fourth class the commissioners shall serve for term of four (4) years, except that if the first election for commissioners does not occur at the same time as the election of mayor [and police judge], the commissioners then elected shall serve for terms expiring with that of the mayor [and police judge]. The terms of the commissioners in cities of the second, third and fourth classes shall begin on the first Monday in January following their election. Commissioners shall be elected at the regular November election prior to the expiration of the terms of the commissioners first elected, and thereafter commissioners shall be elected every two (2) years, in cities of the second and third classes, and every four (4) years in cities of the fourth class.

(2) A mayor, in cities of the second, third and fourth classes, shall be elected at the regular November election prior to the expiration of the term of the present mayor, and every four (4) years thereafter [, and a police judge shall be elected at the regular November election prior to the expiration of the term of the present police judge, and every four (4) years thereafter]. The mayor [and police judge] shall serve for *a* term [s] of

four (4) years, beginning on the first Monday in January following *his* [their] election.

(3) The mayor [, police judge] and commissioners shall be nominated and elected from the city at large.

Section 93. KRS 89.060 is amended to read as follows:

(1) In cities of the fourth class no person shall be elected to the office of mayor [, police judge] or commissioner without first having been nominated in the manner prescribed by this section except when vacancies occur as hereinafter provided. On the first Tuesday after the fourth Monday in May there shall be held a primary election. The primary election shall be conducted by the same officers chosen and acting in the same manner, with the same rights and duties, as in the regular election.

(2) Each applicant for nomination shall, at least fifty-five days before the day of the primary election, file with the county clerk a petition signed by at least twenty voters, in the following form:

"We the undersigned, qualified voters of the city of .... and residing each at the place indicated opposite his name, do hereby request that the name of .... be placed on the voting machine and special ballot as that of an applicant for nomination for the office of .... at the primary election to be held in our city on the first Tuesday after the fourth Monday in May. We know the applicant to be a qualified voter of the city and a person of good character; and he is, in our judgment, qualified for the duties of the office sought by him.

Name **Number** **Street**

....

....

...."

No voter shall sign more than one petition with reference to each office that is to be filled. If a person signs more than one petition of applicants for nomination for mayor [or police judge,] or signs the petitions of more than four applicants for nomination for commissioners, the name of that petitioner shall not be counted as a valid name on any petition.

(3) Immediately upon the expiration of the time for filing the petitions, the county clerk shall have published pursuant to KRS chapter 424, the names of the persons as they will appear upon the primary ballot labels and special ballots, and shall thereupon cause the primary ballot labels and special ballots to be printed.

(4) Subsection (3) of this section shall not apply if it appears, immediately upon the expiration of the time for filing petitions, that there are only two applicants for nomination for mayor [or police judge,] and only eight or less for commissioners. In that case such applicants shall thereupon be nominated and no primary election shall be held for nomination for those offices, but the county clerk shall have their names placed on the voting machine and special ballot for the general election.

(5) The names of the applicants for each nomination shall be placed on the voting machine and special ballots for the primary election by lot. Above the names of the applicants for nomination for mayor [or police judge] shall be printed the words "Vote for one," and above the names of the applicants for nomination for commissioners shall be printed the words "Vote for four." No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(6) The persons who are qualified to vote at the regular municipal election shall be qualified to vote at the primary election, and the law applicable to challenges made at a regular municipal election shall be applicable to challenges made at the primary election.

(7) The two applicants receiving the highest number of votes for nomination for mayor [and the two applicants receiving the highest number of votes for nomination for police judge] shall be thereby nominated. The eight applicants receiving the highest number of votes for nomination for commissioners shall be thereby nominated.

(8) The expenses of the primary election shall be paid by the city, when only city offices are on the ballot. When the ballot includes offices other than city offices, the city shall bear its proportionate share of the cost of the election.

(9) If a vacancy occurs in the nomination of an unopposed candidate such vacancy shall be filled by placing the name of the office on the ballot to be voted on by "write-in" votes. When a vacancy occurs in the nomination of an unopposed candidate and such vacancy does not create a less number of nominees than there are offices to be filled, such vacancy shall not be filled.

(10) If a vacancy occurs after the nominating primary the vacancy shall be filled by certifying the person who received the next highest vote count in the primary as nominated.

(11) If a vacancy occurs during the term of an elected city officer but beyond the filing deadline for the regular city primary but before the expiration of the three months interval required by section 152 of the Constitution such vacancy shall be filled by the filing of nonpartisan petition in the form provided for in subsection (2). The petition shall be filed fifty-five (55) days prior to the general election. The candidates nominated by petition shall be listed on the ballot under the office in which the vacancy has occurred.

Section 94. KRS 89.070 is amended to read as follows:

At the regular election following the primary election, in cities of the fourth class, the names of the nominees shall be placed in alphabetical order upon ballots like those used at the primary election, except that the regular election ballots shall contain only the names of the successful nominees. The nominee receiving the greatest number of votes cast for mayor, [the nominee receiving the greatest number of votes cast for police judge,] and the four (4) nominees receiving the greatest number of votes cast for commissioners, shall be elected, respectively, mayor [, police judge] and commissioners.

Section 95. KRS 89.090 is amended to read as follows:

In cities of the second *and third* class the mayor [, police judge] and city commissioners [, and in cities of the third class the mayor, police judge, prosecuting attorney of the police court, and city commissioners,] shall be nominated and elected in the manner provided by the general election laws and general primary laws for the nomination and election of state and county officers.

Section 96. KRS 89.110 is amended to read as follows:

(1) In cities of the second class the mayor shall receive an annual salary of $4,000, and each commissioner shall receive an annual salary of $3,600.

(2) In cities of the third class the mayor shall receive an annual salary of not more than $4,000 and each commissioner shall receive an annual salary of not more than $3,000, to be fixed in the question submitted to the voters as provided in KRS 89.030 (3), subject to change thereafter, within the above limits, by ordinance of the board of commissioners, which ordinance shall be submitted to the voters, the same as if a petition for referendum had been filed in the manner provided in KRS 89.230 and 89.240; also subject to change, within the above limits, by initiative proceedings as provided in KRS 89.250.

(3) In cities of the fourth class the mayor [, police judge] and commissioners shall each receive an annual salary, for their first term under the commission form of government, in the amount fixed in the question submitted to the voters as provided in KRS 89.030 (4). Thereafter, at least sixty (60) days before the day for holding the primary election provided for by KRS 89.060, the board of commissioners shall, by ordinance, fix the salary of the mayor [, police judge] and commissioners to be elected at the next regular election. The salaries so fixed for each office shall not be less than the salaries then being paid for that office; the salary of the mayor shall not exceed $4,000 per annum, and the salary of [the police judge and] each commissioner shall not exceed $3,000 per annum. If the board of commissioners fails to fix the salaries as provided in this section, the salary of each newly elected officer shall be the same as that of his predecessor.

Section 97. KRS 89.310 is amended to read as follows:

All the present officers of any city which has voted in favor of adopting the commission form of government shall hold their offices until the expiration of their terms, and all of such offices [, except that of police judge,] shall be ipso facto abolished at the expiration of their terms.

Section 98. KRS 89.420 is amended to read as follows:

(1) If the vote at the election is in favor of the organization and government of the city under the city manager form of government, all the present nonelective city offices shall, at the expiration of the term of the mayor [and police judge] in a city of the first class, at the expiration of the term of the mayor [or police judge, whichever occurs first,] in a city of the second or fourth class, and at the expiration of the term of the mayor, in a city of the third class, be ipso facto abolished. All the elective city offices, except those of mayor [, police judge] and member of the city legislative body, in a city of the first, second or fourth class, and mayor, [police judge,] city prosecuting attorney and member of the city legislative body, in a city of the third class, shall be ipso facto abolished at the expiration of the terms of the present incumbents. The office of member of the city legislative body, in cities of the first, second, third and fourth classes, shall be ipso facto abolished at the end of the year in which the first election for commissioners is held.

(2) When any city operating under the city manager form of government is reclassified from a second-class city to a first-class city and retains the city manager form of government, none of the existing elective offices shall be abolished, and all elective officers shall continue to serve until the expiration of their respective terms of office.

Section 99. KRS 89.430 is amended to read as follows:

(1) In cities of the second and fourth classes, at the first regular election at which the mayor [or police judge] of the city is elected after the election at which the city manager form of government was adopted, there shall be elected by the qualified voters of the city four (4) commissioners and a mayor [, or police judge, as the case may be].

(2) In cities of the third class, at the first regular election at which the mayor of the city is elected after the election at which the city manager form of government was adopted, there shall be elected by the qualified voters of the city four (4) commissioners and a mayor. [The police judge shall be elected at the same time as

he would have been elected if the city manager form of government had not been adopted.]

(3) In any city which has been reclassified from a second to a first-class city and which has been governed under the city manager form of government prior to reclassification and retains the city manager form of government, at the first regular election at which the mayor [or police judge] and commissioners are elected after the reclassification, there shall be elected by the qualified voters of the city four (4) commissioners and a mayor [, or police judge, as the case may be].

(4) In a city of the first class, at the first regular election at which the mayor [and police judge] of the city *is* [are] elected after the city manager form of government was adopted, pursuant to the provisions of KRS 89.410, there shall be elected by the qualified voters of the city four (4) commissioners and a mayor [and police judge].

(5) In cities of the first, second, third and fourth classes the commissioners shall serve for terms of two (2) years and the mayor for a term of four (4) years, beginning on the first Monday in January following their election. [The police judge shall serve for a term of four (4) years, beginning on the first Monday in January following his election in cities of the first, second and fourth classes, and on the first Monday in December following his election in cities of the third class.] Every second year after the election at which commissioners were elected, and every fourth year after the election at which a mayor [or police judge] was elected [, or a mayor and police judge were elected in a city of the first class], a primary election and regular election shall be held in the same manner for the same offices.

(6) The city manager form of government shall become effective and go into operation upon the qualification and installation in office of the mayor [, or police judge, or both, as the case may be,] and the commissioners.

Section 100. KRS 89.440 is amended to read as follows:

(1) No person shall be elected to the office of mayor [, police judge] or commissioner without first being nominated in the manner prescribed by this section except when vacancies occur as hereinafter provided. On the first Tuesday after the fourth Monday in May there shall be held a primary election. The primary election shall be conducted by the same officers chosen and acting in the same manner, with the same rights and duties, as in the regular election.

(2) Each applicant for nomination shall, at least fifty-five days before the day of the primary election, file with the county clerk a petition signed by at least one hundred (100) voters, in a city of the first or second class, or by at least fifty (50) voters in a city of the third or fourth class, in the following form:

"We the undersigned, qualified voters of the city of .... and residing each at the place indicated opposite his name, do hereby request that the name of .... be placed on the voting machine and special ballot as that of an applicant for nomination for the office of .... at the primary election to be held in our city on the first Tuesday after the fourth Monday in May. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name **Number** **Street**

....

....

...."

No voters shall sign more than one (1) petition with reference to each office that is to be filled. If any voter signs more than one (1) petition of applicants for nomination for mayor [or police judge,] or signs the petitions of more applicants for nomination for commissioners than the number of commissioners to be elected, the name of that petitioner shall not be counted as a valid name on any petition.

(3) Immediately upon the expiration of the time for filing petitions the county clerk shall have published as provided in KRS chapter 424, the names of the persons as they will appear upon the primary ballot labels and special ballots, and shall thereupon cause the primary ballot labels and special ballots to be printed.

(4) Subsection (3) of this section shall not apply if it appears, immediately upon the expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination as mayor [or police judge,] or not more applicants for nomination for commissioner than twice the number of commissioners to be elected. In that case the applicants for mayor [or police judge] and the applicants for commissioner shall thereby be nominated, and no primary election shall be held for nomination for those offices.

(5) The names of the applicants for each nomination shall be placed on the voting machine as provided in KRS 89.460. Above the names of the applicants for nomination for mayor [or police judge] shall be printed the words, "Vote for one," and above the names of the applicants for nomination for commissioners shall be printed the words, "Vote for four," in a city of the second, third or fourth class. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(6) The persons who are qualified to vote at the regular municipal election are qualified to vote at the primary election, and the law applicable to challenges made at a regular municipal election is applicable to challenges made at the primary election.

(7) The votes shall be counted as provided in the general election laws, and after being so counted the result shall be published as provided in KRS chapter 424.

(8) The two (2) applicants receiving the highest number of votes for nomination for mayor [and the two (2) applicants receiving the highest number of votes for nomination for police judge] shall be thereby nominated. The eight (8) applicants receiving the highest number of votes for nomination for commissioners are thereby nominated.

(9) The expenses of the primary election shall be paid by the city, when only city offices are on the ballot. When the ballot includes offices other than city offices, the city shall bear its proportionate share of the cost of the election.

(10) If a vacancy occurs in the nomination of an unopposed candidate such vacancy shall be filled by placing the name of the office on the ballot to be voted on by "write-in" votes. When a vacancy occurs in the nomination of an unopposed candidate and such vacancy does not create a less number of nominees than there are offices to be filled, such vacancy shall not be filled.

(11) If a vacancy occurs after the nominating primary the vacancy shall be filled by certifying the person who received the next highest vote count in the primary as nominated.

(12) If a vacancy occurs during the term of an elected city officer but beyond the filing deadline for the regular city primary but before the expiration of the three month interval required by section 152 of the Constitution such vacancy shall be filled by the filing of nonpartisan petition in the form provided for in subsection (2). The petition shall be filed fifty-five (55) days prior to the general election. The candidates nominated by petition shall be listed on the ballot under the office in which the vacancy has occurred.

Section 101. KRS 89.450 is amended to read as follows:

At the regular election following the primary election, the names of the nominees shall be placed upon ballots like those used at the primary election, except that the regular election ballots shall contain only the names of the successful nominees. The nominee receiving the greater number of votes cast for mayor, [the nominee receiving the greater number of votes cast for police judge,] and the four (4) nominees, in a city of the first, second, third or fourth class, receiving the greater number of votes for commissioners shall be elected, respectively, mayor [, police judge] and commissioners.

Section 102. KRS 90.360 is amended to read as follows:

(1) No employe in the classified service of a city of the second or third class shall be dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law involving moral turpitude, or, in a city of the third class, violation of any rule adopted by the city legislative body or civil service commission.

(2) Any person may prefer charges in writing against any employe by filing them with the mayor or other appointing authority who shall communicate the charges without delay to the civil service commission of the city. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employe whom he believes guilty of conduct justifying his removal. Upon the filing of charges the clerk of the civil service commission shall notify its members and serve a copy of the charges upon the accused employe with a statement of the date, place and hour at which the hearing of charges will begin, this hearing not to be held within three (3) days of the date of the service of charges upon the accused employe. The day on which the charges are served on the accused employe shall count as one (1) of the days of notice. The person accused may in writing waive the service of charges and demand trial within three (3) days after they have been filed with the clerk of the civil service commission.

(3) Upon the hearing the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges.

(4) The civil service commission shall have the power to summon and compel attendance of witnesses at all hearings by subpoena issued by the clerk of that body and served upon the witnesses by members of the police department of the city or any officer authorized to serve subpoenas. *If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the commission may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court.* [, and the civil service commission shall have the power of a justice of the peace to punish for contempt.] The accused employe shall have the right to have subpoenaed any witnesses he may desire, upon furnishing their names to the clerk. As many as ten (10) subpoenas may be served on the request of the accused employe without charge but each additional subpoena requested by him shall be issued by the clerk and served by the police department only upon payment of fifty cents (50¢) to the city clerk by the employe. The action and decision of the civil service commission on the charges shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the body's decision.

(5) In cases where the head of the department or the appointing authority has probable cause to believe an employe has been guilty of conduct justifying his removal or punishment he shall immediately suspend that employe from duty or from both pay and duty pending trial and the employe shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.

(6) The civil service commission shall punish any employe found guilty by reprimand or a suspension for any length of time not to exceed six (6) months, or by reducing the grade, if the employe's classification warrants, or by combining any two (2) or more of these punishments, or by dismissal. No employe shall be reprimanded, removed, suspended or dismissed except as provided in this section.

Section 103. KRS 90.370 is amended to read as follows:

(1) Any employe of the city found guilty by the civil service commission of any charge as provided by KRS 90.360 may *bring an action in* [appeal to] the circuit court of the county in which the city is located *to contest the action of that body* [, if the punishment is a suspension of more than thirty (30) days, a reduction in grade, or dismissal, but the enforcement of the judgment of the civil service commission shall not be suspended pending appeal].

(2) Upon request in writing by the accused, and the payment of costs therefor, the clerk of the civil service commission shall file a certified copy of the charges and the judgment of that body in the circuit court. Upon the transcript being filed the case shall be docketed in the circuit court and tried *as an original action* [de novo].

(3) If the clerk fails to certify the transcript to the circuit court within five (5) days after the request is made, then the aggrieved person may file an affidavit in that court setting out as fully as possible the charges made at the time of trial and judgment, together with a statement that demand for the transcript had been made of the clerk more than five (5) days prior to the filing of the affidavit. Upon filing of this affidavit in the circuit court, the case shall be docketed in that court and the court may compel the filing of the transcript by the clerk by entering proper mandatory order, and upon failure of the clerk so to do, he shall be liable to fine and imprisonment for contempt. Such *action* [appeal] shall have precedence over other business and be determined speedily.

[(4) An appeal will lie from the judgment of the circuit court to the Court of Appeals as in other cases, if the original punishment fixed by the civil service commission was dismissal of the accused. In cities of the second class, an appeal will also lie from the judgment of a circuit court in any controversy arising under this section or any other section of the statutes relating to civil service for cities of the second class.]

Section 104. KRS 91.320 is amended to read as follows:

(1) Every person owning or holding taxable property, either in his own right or as a fiduciary or agent, shall return to the assessor or his assistant a true list of all such property, stating the value of the personal property, upon blanks prepared for that purpose by the assessor, in the form prescribed by ordinance, and shall make oath before the assessor or his assistant. However, if it be deemed expedient, the city assessor may mail, by postal card, appropriate notice to the last known address of the taxpayer and by agreement with the property valuation administrator receive the return of the said true list or schedule of all such taxable property in the office of the property valuation administrator simultaneously with the taking of such list or schedule for state and county purposes by the property valuation administrator, and under such arrangement the city tax assessor shall provide for such purpose a sufficient number of deputies to expeditiously perform such duties and they shall perform such duties in the office of the property valuation administrator during the period necessary to complete said duties. If such arrangement is made, both the city assessor and the property valuation administrator, and the deputies of each and either, are hereby empowered to administer any oath to the taxpayer, provided by law in connection with the return of any list or schedule, whether the property be located in the county outside the city or in the corporate limits of the city. The method of payment of salaries to said deputies engaged in said work shall not be affected by such arrangement. If the office of the property valuation administrator is put to any additional expense by reason of the taking of such lists or schedules for city property, such additional expense shall be paid by the city. Nothing in this section shall be construed as an acceptance by the city of the assessment of the property valuation administrator on property located in the city, but for the sole purpose of convenience and economy.

(2) If any such person fails to return a true list under oath, the assessor may, according to the best information he can obtain, assess the property.

(3) The *district* [police] court shall, at the instance of the assessor, enforce by rule or process of contempt the return, under oath, of the list required by this section.

(4) The assessor shall each day make diligent search among the conveyances and probated wills recorded in the office of the county clerk and among the confirmations of sales in the courts, and shall also make personal inquiry in his yearly rounds about deaths among the owners of lands or improvements in the city.

(5) The assessor shall keep in alphabetical order a register of all transfers of real estate. All purchasers of real estate in the city shall furnish the assessor information thereof within two (2) days after the conveyance has been lodged for record. The assessor shall notify such purchasers of any taxes that remain unpaid and are a lien on the property bought.

Section 105. KRS 91.400 is amended to read as follows:

(1) The assessment books shall remain open in the assessor's office from September 15 to September 30. Any person who thinks that his lands, improvements or personal property or those in which he has an interest have been assessed beyond their value may, before September 30, file with the assessor his complaint, specifically describing the property claimed to be assessed beyond its value and the alleged excess. The board of equalization shall investigate all complaints duly filed and shall, according to the justice of the case, approve, reduce or raise the assessment. When any complaint is heard by the board of equalization, the burden of proof shall be upon the person complaining to show that his property has been assessed beyond its value, or that he did not, on the assessing date, own the property sought to be assessed. If the board decides on investigation that any assessment is too low, it shall thereupon notify the taxpayer by mail, stating the value which it believes should be put upon the property involved, and fix a day for the taxpayer to appear before it, not earlier than five (5) days, exclusive of Sundays and holidays, after the mailing of the notice. If the taxpayer appears he shall be given an opportunity to show why the value suggested by the board is not correct, and the board shall thereupon fix the assessment of the property. If the taxpayer does not appear at the time set, the board shall fix the assessment of the property at its proper value.

(2) Any taxpayer feeling himself aggrieved by any action of the board of equalization may appeal to the *circuit* [quarterly] court within thirty (30) days after the final adjournment of the board of equalization, by filing with the [judge of the quarterly] court a copy of the action of the board, certified by the assessor. The assessor or the city attorney, if he feels that the city has been aggrieved by the action of the board of equalization or on account of the failure of the board to act, may appeal from the board to the *circuit* [quarterly] court by filing with [the judge of] that court a brief statement showing the action of the board or stating wherein it failed to properly act. The [quarterly] court shall hear evidence and pass upon all such appeals. The taxpayer, the assessor or the city attorney may appeal from the [quarterly court to the] circuit court [and then] to the Court of Appeals as in other civil cases. When an appeal from the board is taken by a taxpayer, the city attorney shall represent the board in [the quarterly court,] the circuit court and the Court of Appeals, and when an appeal from the board is taken by the city attorney or the city assessor, the city attorney shall represent the interests of the city in those courts.

Section 106. KRS 92.090 is amended to read as follows:

(1) The auditor in cities of the second class shall be the general accountant of the city, and shall exercise a general superintendence over the fiscal affairs of the city, including the collection and disbursement of funds and the protection and disposition of city property and claims. He shall, with the consent of the mayor, see that all necessary steps are taken to protect the interests of the city in any property or claim, that proper rules are made and observed in relation to financial accounts, settlements and reports, that no liability is incurred or expenditure made without authority of law, and that no appropriation is overdrawn. He shall preserve the credit standing of the city. He may, with the mayor's written consent, do all things otherwise lawful and necessary to perform his duties.

(2) The auditor shall:

(a) Adopt a proper method of double-entry bookkeeping, and keep all accounts of the city in a systematic, orderly manner.

(b) Receive and preserve in his office all accounts, books and papers relating to the accounts, contracts and fiscal affairs of the city.

(c) Keep all accounts and memorandums of claims against the city properly filed and indexed.

(d) Keep accounts of all money received by the city from any officer or agent from any source, and see that all such money is deposited in the treasury regularly once a day, unless otherwise provided by statute or ordinance, and if any of the provisions of this paragraph are not complied with, shall report the fact to the mayor and general council.

(e) State and render all accounts between the city and other persons, except when otherwise provided by statute or ordinance.

(f) Examine, adjust and audit all unsettled claims against the city for payment of which any money may be drawn from the treasury, and after having examined each claim, with all accompanying vouchers and documents, shall certify thereon the balance or true state of the claim, but no such claim or any part thereof shall be audited against the city unless it is authorized by statute or ordinance, and is in proper and fully itemized form, and unless the amount required for its payment has been appropriated for that purpose by the general council, or until a classified list of such claims has been approved by the auditing committee and reported to and ordered to be paid by the general council.

(g) Countersign all warrants drawn on the treasurer for any payments, and duly record the amount and nature of the payment.

(h) Report the balance in the treasury each day to the mayor, and at each regular monthly meeting of the general council report the unexpended balance of each appropriation.

(i) Make annual reports to the general council, and to the mayor on his request, on the financial condition and requirements of the city, with careful estimates of receipts and expenditures.

[(3) Whenever so ordered by the mayor, the auditor shall examine the records and proceedings of the police court and of the justices' courts in the city and ascertain and report to the mayor all costs, fees, fines, money due upon judgments or replevin bonds and other money due the city, and the mayor shall see that such steps are taken as are necessary to have the same collected and paid into the treasury.]

(3) [(4)] The records of the auditor's office shall show the financial condition and operations of the city, its assets, claims and property, the expenditures authorized for public works, all contracts in which the city is interested, with the names of the contractors, and the indebtedness of the city.

(4) [(5)] The books of the auditor shall be public records, and shall be open at all times to inspection by the mayor and the members of the general council and, under proper regulations, to the public.

Section 107. KRS 92.440 is amended to read as follows:

(1) The board of equalization of each city of the second class shall meet at a suitable place provided by the city on any date during the year in which property is listed by owners for taxation purposes, or on the first day of January in the next succeeding year, but not later than the last mentioned date. If the board shall meet prior to the first Monday in January, the meeting date shall be fixed by ordinance. After taking office and electing a chairman and a clerk the board shall notify the auditor that it is ready to receive the assessment books, and the auditor shall then deliver them and take the receipt of the board therefor.

(2) The board shall compare the real estate assessments with the plat books in the auditor's office and see that every parcel of real estate in the city has been assessed. If it finds that any real estate has been omitted, it shall certify that fact to the city solicitor, giving the number of parcels omitted, and the city solicitor shall enforce against the assessor the penalty provided for in subsection (2) of KRS 92.990. The board shall assess the parcels omitted.

(3) The board shall hear and determine all complaints made against assessments. It shall increase or decrease assessments on like property in order to make all assessments uniform, or to place a true value on the property. It may, by a resolution or order signed by at least two (2) members, increase or decrease all assessments of real estate uniformly by adding or *subtracting* [substracting] a percentage of the assessments, and need not give notice of such an increase except by publication pursuant to KRS chapter 424. No increase of an assessment shall be made except a uniform increase as above provided, without notice to the person whose assessment is to be increased.

(4) Where an assessment has been made against the property of a person who had actual notice to appear and list his property or make statements thereof but failed to do so, the board of equalization shall not decrease, but may increase, the assessment.

(5) The board shall remain in session as long as the business requires, but not for more than four (4) weeks, unless the city legislative body, for cause stated, extends the time. The assessor shall be in constant attendance on the board and shall furnish all information possible.

(6) The board shall not change any assessment by erasure, but shall make all changes and additions in appropriate columns provided for that purpose, and shall use ink of a different color from that used by the assessor.

(7) When the board has completed its work it shall prepare, under the signatures of its members a statement showing the gross assessments of real property and of personal property, and the total of both, and the increase or decrease made by the board in the total assessment. The board shall return the statement to the city auditor, with all assessment books, plats and papers received from him, and shall take his receipt therefor.

(8) The city auditor shall carefully verify the statement of the board of equalization and the assessment books, and if they are correct he shall certify the statement. If he finds a mistake, he shall cause the board of equalization to meet, and together with the board shall ascertain the correct amount. The auditor shall transmit the statement of the board, certified by him as correct, to the city legislative body as a basis for the annual levy ordinance.

(9) Any taxpayer whose assessment has been raised or whose assessment upon his complaint has not, after proper showing, been decreased by the board of equalization otherwise than by the uniform increase of assessments may, within thirty (30) days after the final adjournment of the board, appeal to the *circuit* [quarterly] court by filing with the clerk of that court a copy of the action of the board, certified by the clerk of the board. The clerk of the board shall furnish the taxpayer, on demand, with such a certified copy of the action of the board as is necessary for the appeal. [Either party may appeal from the quarterly court to the circuit court and thence to the Court of Appeals as in other civil cases.] Appeals to the [quarterly court or]

circuit court shall be tried without the intervention of a jury, and in case of appeals by the taxpayer the burden shall be upon the taxpayer to show that his property has been inequitably assessed. The cost of the appeals shall be adjudged against the unsuccessful party. *Either party may appeal to the Court of Appeals as in other civil cases.*

Section 108. KRS 92.480 is amended to read as follows:

(1) The board of supervisors of each city of the third class shall convene in the council hall on any date during the year in which property is listed by owners for taxation purposes, or on the first Monday in February in the next succeeding year, or at some later date not later than the first Monday in April. Upon convening, the board shall proceed to the discharge of its duties. The assessor shall meet with the board and act as its clerk. The board shall supervise all assessments, and see that all property is assessed at its fair cash value, taking into consideration the width, depth and location of all lots, and the cost and condition of improvements and personal property.

(2) Upon finishing its work, the board shall return the tax book to the city clerk, who shall submit it to the common council. Any person aggrieved by the action of the assessor or board of supervisors may appeal to the common council, and upon such appeal the common council may make such changes in the assessment or valuation of that person's list as are just and equitable. If the action of the common council is not satisfactory, the party aggrieved may appeal to the *circuit* [quarterly] court of the county in which the property is located, [and from the quarterly court to the circuit court,] and from that court to the Court of Appeals, as in other civil cases.

(3) The provisions of the statutes governing the county supervisors of tax shall, as far as applicable, govern cities of the third class, except as otherwise provided in this chapter.

Section 109. KRS 92.500 is amended to read as follows:

(1) An assessment of any real property, in a city of the fourth class, in the name of a person other than the true owner shall not be invalid, nor shall the lien of the tax be affected thereby. The assessor or collector, upon learning of the error and after notifying the true owner by mail, shall correct the assessment in this respect, and all proceedings for the collection of the tax may then proceed, subject to the right of the owner to have the valuation corrected at a meeting of the board of supervisors to be called for that purpose.

(2) If any person fails to give a list of his taxable property when called on by the assessor, or gives a false or fraudulent list, the assessor shall return him on his books as a delinquent, and the *district court* [police judge of the city] shall, upon application of the assessor, issue a rule against the delinquent and compel true answers by process of contempt, and adjudge against the delinquent the costs of the proceedings.

(3) If any property subject to taxation has not been listed, the city legislative body may assess it, but not after more than five (5) years elapsed.

Section 110. KRS 92.530 is amended to read as follows:

(1) The board of equalization of each city of the fifth class shall meet at 10 Ca.m. on the first Monday of March each year. The board of equalization of each city of the sixth class shall meet at 10 Ca.m. on the first Monday of December each year. The board of equalization of each city of the fifth or sixth class shall continue in session from day to day until all the returns of the assessor have been rectified, except that in cities of the sixth class the board shall not remain in session more than three (3) days. The board may hear complaints, and correct, modify or strike out any assessments made by the assessor, and may, on their own motion, raise any assessment upon notice to the party whose assessment is to be raised. The corrected list for each tax shall be the assessment roll for that tax for the year, and shall be so certified by the city clerk.

(2) Any taxpayer feeling himself aggrieved by the action of the board of equalization of any city of the fifth or sixth class in assessing or increasing the valuation of his property for taxation may appeal to the *circuit* [quarterly] court of the county, within thirty (30) days after the final adjournment of the board, by filing with the [judge of the quarterly] court a copy of the action of the board, certified by the clerk of the board. The fee of the clerk for the copy shall be fifty cents (50¢). If the clerk fails, on demand and tender of the fee, to furnish the person desiring to appeal with a certified copy of the action of the board, the person may appeal within the allowed time by filing his affidavit of the demand and tender with the [judge of the quarterly] court, who shall thereupon make an order directing the clerk to furnish and file the copy. The [quarterly] court shall hear evidence and pass upon the appeal, and either party may appeal [to the circuit court] as in other cases. The city attorney represents the board in all such cases.

Section 111. KRS 92.610 is amended to read as follows:

Whenever the treasurer in any city of the second class, having in his hands delinquent tax bills for collection, believes that another person is indebted in money or property to the person owing the taxes, he may cause to be delivered to the person owing the taxes, if he can be found, and to the person indebted to him, a written notice substantially as follows: "You are hereby notified that .... is indebted to the city of .... in the sum of $.... for taxes, with interest and penalties thereon and with $.... added for the costs of this proceeding, amounting to the total sum of $..... To that extent you are notified not to pay or deliver to him any money or property that you now owe or may hereafter owe to him, and to appear before the *circuit* court [of (county judge or justice of the peace)] of .... county, on the [first day of the next term of that court beginning on the] .... day of ...., to show cause why you should not be adjudged to pay said taxes, with interest, penalty and costs." All persons indebted to the delinquent taxpayer may be included in the same notice. The notice shall be signed by the treasurer and shall operate to enjoin the person named in it from paying, in the amount mentioned in the notice, any money, property or other thing of value owing at the time of the service of the notice, or accruing thereafter, until the matter is heard by the court. The notice shall be returnable to the court designated thereon. No bond or affidavit shall be required of the city or of the treasurer, but the treasurer shall file a copy of the tax bill attested by the city clerk under the seal of the city, if required by the court. The proceedings shall be docketed in the name of the city and, if necessary, to the interest of the city, the court may cause other parties to be brought before it and made party to the proceedings. On the hearing, the court may hear evidence, and the debtor of the delinquent shall be compelled to disclose, in open court, all matters of account and indebtedness of money, property or labor owing at the date of the notice or incurred thereafter. The court shall direct the debtor to pay or deliver to the treasurer any money, property or other thing due to the delinquent at that time or at the time notice was served, to the extent of the taxes and costs or to the extent of his liability, including such as accrued after notice though paid or discharged. If any property is so delivered, the treasurer shall sell it after advertisement in the manner provided for the sale of personal property distrained for taxes in cities of the second class. If the debtor of the delinquent fails to attend or to make disclosure, the court shall render judgment against him for all the taxes, interest, penalty and costs, and the court may compel him to attend and make disclosure in the manner provided by law with reference to garnishees. The person owing the taxes shall not be discharged from liability for them until they are fully paid, or the full amount is realized in proceedings under this section. The court, in its judgment, shall provide for the payment of all taxes due the city with penalty, interest and costs. The delinquent may defend by showing that the property has never been assessed, or that the property is not subject to taxation, or that the taxes have been paid, but it shall not be sufficient to show a defective assessment merely. Any of the things to be performed by the treasurer in this section may be performed by his deputy or any other agent, employe or collector of the city employed for that purpose.

Section 112. KRS 92.790 is amended to read as follows:

(1) The city council of any city of the fourth class may order actions to be instituted for the collection and enforcement of any delinquent tax bill and the lien therefor. All actions for taxes on real property shall be brought in the circuit court of the county in which the city is located and enforced as other liens are enforced, and all actions for taxes on personal property may be brought in the *district* [police] court of the *county* [city]. In all such actions the production of the tax bill shall be prima facie evidence of the correctness thereof, and that all proper steps were taken to fix the lien therefor.

(2) If any tax bill against a person not under disability of infancy, coverture or unsound mind is partly or wholly unpaid on the first Monday of November, the amount of the tax, together with interest at six per cent (6%) per annum, shall be a debt from that person to the city, arising as by contract, and may be enforced as such by all remedies given for the recovery of debts.

Section 113. KRS 92.990 is amended to read as follows:

(1) Any assessor or deputy assessor of a city of the second class who knowingly fails to assess any real or personal property subject to be taxed by the city shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), and shall forfeit his office and be ineligible thereto for five (5) years.

(2) Any assessor of a city of the second class who fails in any year to assess any lot or parcel of ground that is shown on the plat books in the office of the city auditor and is subject to be taxed by the city shall be fined one hundred dollars ($100) and a sum equal to the taxes on the lot or parcel of land for that year.

(3) Any assessor or deputy assessor of a city of the third class who violates subsection (5) of KRS 92.120 shall forfeit his office.

(4) Any person who refuses to attend or to be sworn when called as a witness by the board of equalization of any city of the second class, or refuses to answer any question, shall be subject to the penalties provided in subsection (6) of this section for a like refusal to the assessor.

(5) Any member of the legislative body or any officer of a city of the second to sixth class who violates any of the provisions of subsection (3) of KRS 92.360 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not less than one (1) month nor more than one (1) year, or both, except that in cities of the second class the maximum fine shall be one thousand dollars ($1,000) instead of five hundred dollars ($500).

(6) If any person refuses to attend when summoned by the assessor or a deputy assessor of any city of the second class, or to be sworn to answer, or to answer, any question asked by the assessor or his deputy,

the assessor or deputy may, in writing under oath, state the question and the fact of refusal to answer it and ask the *district court* [police judge] to issue a warrant. If the question appears to be proper, the *district court* [police judge] shall issue the warrant against the person refusing. Upon being convicted of refusing to answer a proper question, the person so refusing shall be fined ten dollars ($10.00) and compelled by process of contempt to answer that question and any other proper questions asked by the assessor or his deputy.

(7) If the assessor of any city of the fourth class fails to comply with the provisions of subsection (5) of KRS 92.490 the city council may remove him from office.

(8) Any collector or treasurer of a city of the fourth class who makes an illegal or unreasonable seizure or levy for taxes shall be liable in damage to the person aggrieved.

Section 114. KRS 94.282 is amended to read as follows:

(1) Any city may acquire, maintain and operate a garbage disposal system, together with extensions and necessary appurtenances thereto within or without the limits of the city.

(2) If any such garbage disposal system is acquired from a company having a franchise, such system may be acquired [as an electric plant may be acquired] under the provisions of the Eminent Domain Act of Kentucky, except as otherwise provided in KRS 94.283 to 94.287.

Section 115. KRS 95.450 is amended to read as follows:

(1) Except as provided in subsection (5) of this section no member of the police or fire department in cities of the second and third classes or urban-county government shall be reprimanded, dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law or of the rules adopted by the legislative body, and only after charges are preferred and a hearing conducted as provided in this section.

(2) Any person may prefer charges against a member of the police or fire department by filing them with the clerk of the legislative body who shall immediately communicate the same to the legislative body. The mayor shall, whenever probable cause appears, prefer charges against any member whom he believes guilty of conduct justifying his dismissal or punishment. The charges shall be written and shall set out clearly the charges made. The person preferring the charges may withdraw them at any time prior to the conclusion of the hearing. The charges may thereupon be dismissed.

(3) Upon the hearing all charges shall be considered traversed and put in issue, and the trial shall be confined to matters related to the issues presented. Within three (3) days after the charges have been filed with the legislative body, that body shall proceed to hear the charges. At least two (2) days before the hearing the member accused shall be served with a copy of the charges and a statement of the day, place and hour at which the hearing of the charges will begin. The person accused may, in writing, waive the service of charges and demand trial within three (3) days after the charges are filed with the clerk.

(4) The legislative body may summon and compel attendance of witnesses at hearings by subpoena issued by the clerk of that body and served upon the witnesses by any officer authorized to serve court subpoenas [, and the body shall have the power of a justice of the peace to punish for contempt]. *If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the commission may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court.* The member accused may have subpoenaed any witnesses he may desire, upon furnishing their names to the clerk. The action and decision of the body on the charges shall be reduced to writing and entered in a book kept for that purpose, and the written charges filed in the matter shall be attached to the book containing the decision.

(5) When the appointing authority or the head of the department has probable cause to believe a member of the police or fire department has been guilty of conduct justifying dismissal or punishment, he or it may suspend the member from duty or from both pay and duty, pending trial, and the member shall not be placed on duty, or allowed pay, until the charges are heard. If the member is suspended, there shall be no continuances granted without the consent of the member accused.

(6) The legislative body shall fix the punishment of a member of the police or fire department found guilty, by a reprimand, suspension for any length of time not to exceed six (6) months, by reducing the grade if the accused is an officer, or by combining any two or more of those punishments, or by dismissal from the service.

Section 116. KRS 95.460 is amended to read as follows:

(1) Any member of the police or fire department in cities of the second and third classes or urban-county governments found guilty by the legislative body of any charge, as provided by KRS 95.450, may appeal to the circuit court of the county in which the city or urban-county government is located, but the enforcement of the judgment of the body shall not be suspended pending appeal.

(2) Upon request of the accused the clerk of the legislative body shall file a certified copy of the charges and the judgment of that body in the circuit court. Upon the transcript being filed the case shall be docketed in

the circuit court and tried *as an original action* [de novo].

(3) If the clerk fails to certify the transcript to the circuit court within five (5) days after the request is made, the party aggrieved may file an affidavit in the circuit court setting out as fully as possible the charges made, the time of the hearing, and the judgment of the legislative body, together with a statement that demand for transcript was made upon the clerk more than five (5) days before the filing of the affidavit. Upon the filing of the affidavit in the circuit court the case shall be docketed and the circuit court may compel the filing of the transcript by the clerk by entering the proper mandatory order, and by fine and imprisonment for contempt. The appeal shall have precedence over other business, and be determined speedily.

(4) An appeal will lie from the judgment of the circuit court to the Court of Appeals as in other cases.

Section 117. KRS 95.480 is amended to read as follows:

(1) The chief of police in cities of the second class or a policeman acting under his authority shall attend all sessions of the legislative body [and the police court], execute their orders, and preserve order at their sessions. [All regular policemen shall be officers of the police court. The chief of police shall collect the fees of the judge of the police court or other court exercising the powers of the police court in an urban-county government and of the mayor, if required.]

(2) The chief of police may receive the same fees, for the use of the city or urban-county government, that sheriffs are entitled to receive for like services, and have the same power to collect them.

(3) The chief of police, policemen deputized by him, and others to whom the process of *a* [the police court or some other] court is directed and comes for execution shall execute and return the process within the time prescribed by law for sheriffs to execute and return similar process, and on their failure they and their sureties shall be liable to the same penalties as sheriffs. They shall be subject to similar penalties for not paying over moneys collected on execution, making illegal charges, false returns and like illegal acts.

(4) The *district* [police] court [or some other court] may hear and determine motions against them and their sureties for failure to pay over moneys collected, as the circuit court has jurisdiction to hear and determine motions against defaulting sheriffs, or may proceed by fines and imprisonment to enforce the execution and return of process.

Section 118. KRS 95.660 is amended to read as follows:

(1) The city marshal in cities of the third class shall keep an office in the city hall or some other convenient place designated by the city legislative body and provided at the expense of the city. He or one (1) of his deputies shall be in the office during all business hours of the day.

(2) The city marshal shall settle his accounts with the city quarterly during each year, in the manner prescribed by ordinance. His reports of settlement shall be examined and certified by the prosecuting attorney [and police judge,] and approved by the city legislative body.

Section 119. KRS 95.680 is amended to read as follows:

(1) The city marshal in cities of the third class shall [wait upon the police court of the city as the sheriff is required to wait upon the circuit court of his county. He shall] be a peace officer of the city and the state [, and the chief ministerial officer of the police court].

(2) He shall attend and preserve order at all sessions of the city legislative body [and the police court], and shall obey the lawful mandates of the city legislative body [, police court] and mayor.

(3) He shall execute all process and notices issued by the city clerk, mayor, and board or committee authorized to issue a process or notice, or its clerk.

(4) He may execute and return any process issued by any court or officer of the state, but he shall not be required to execute any process from any court [except the police court of his city]. His jurisdiction shall be coextensive with his county.

(5) He shall perform such other duties as may be prescribed by law or ordinance.

Section 120. KRS 95.730 is amended to read as follows:

(1) In cities of the fourth and fifth classes the chief of police shall be in command of the police department, except that in cities of the fourth class he shall be second in command to the mayor.

(2) He shall attend all sessions of the city legislative body, execute its orders and preserve order at its sessions.

[(3) He or a member of the police force designated by him shall attend all sessions of the police court, act as sheriff at the court, and execute all process, orders and judgments of the court.]

(3) [(4)] The chief of police or any member of the police force shall cause proceedings to be instituted against any person carrying on business or doing any act without a license for which a license is required.

(4) [(5)] In cities of the fifth class the chief of police shall have supervision of the city jail and the chain gang.

Section 121. KRS 95.765 is amended to read as follows:

(1) No member of the police or fire departments shall be removed from the department or reduced in grade upon any reason except inefficiency, misconduct, insubordination or violation of law, or violation of the rules adopted for the departments. Any person may prefer charges against a member of the police or fire departments, which must be filed in the office of the mayor, who shall thereupon communicate said charges without delay to the legislative body. Said charges must be written, signed by the person making such charges and must set out with clearness and distinctness each and every charge. It shall be the duty of the mayor and each member of the legislative body, whenever probable cause appears, to prefer charges against any member of the police or fire departments whom he or she believes to have been guilty of any conduct justifying his removal or punishment in the interest of public order. The charges thus filed shall be written and shall set out with distinctness and clearness the charges made, and upon the hearing of any charges, as hereinafter provided, all said charges shall be considered traversed, and put in issue, and the trial shall be confined to matters related to the issue so presented. All charges against members of the police or fire departments shall be filed with the clerk of the legislative body, and within three (3) days after said filing the legislative body shall proceed to hear and examine said charges; Provided two (2) days before said hearing the member of the police or fire departments, accused, has been served with a copy of said charges, and a statement of the day, place and hour at which and when the hearing of said charges shall begin. The person accused may, however, in writing, waive the service of said charges, and demand trial within three (3) days after said charges are filed with the clerk of said legislative body. The legislative body will have the power to summon and compel the attendance of witnesses at all hearings or sittings by said body, upon subpoena issued by the clerk of said body, and served upon said witnesses by any officer authorized to serve subpoenas from any court of justice in the county [, and said body shall have the power of a justice of the peace to punish for contempt]. *If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the commission may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court.* The member of the police or fire department, the accused, shall have the right to have subpoenaed, in his behalf, any witness he may desire, upon furnishing their names to the clerk of said body, and the action and decision of said body on said charges shall be reduced to writing and shall be entered in a book to be kept for that purpose by the clerk of said legislative body, and the written charges filed in this matter shall be preserved and securely attached to the book containing the legislative body's decisions.

(2) In cases where the mayor or chief has probable cause to believe that a member of the police or fire department has been guilty of any conduct justifying removal or punishment, he may suspend said member from duty, or from both pay and duty, pending said trial, and said member shall not be placed on duty or allowed pay thereafter until the charges are heard by the legislative body. The said body shall fix punishment against a member of the police or fire departments found guilty of any charge under KRS 95.761 to 95.785, by reprimand or suspension for any length of time in their judgment, not to exceed six (6) months, or by reducing the grade, if the accused be chief or other officer, or by combining any two (2) or more of said punishments, or by removal or dismissal from the service of any such member of the police or fire department. No member of the police or fire department except as provided in KRS 95.761 to 95.785 shall be reprimanded, removed, suspended, or dismissed from the department until written charges have been made, or preferred against him, and a trial had as herein provided.

Section 122. KRS 95.766 is amended to read as follows:

(1) Any member of the police or fire departments who shall be found guilty by the legislative body of any charge as hereinbefore provided, *may bring an action in* [shall have the right to appeal to] the circuit court of the county in which said city may be located *to contest the action of that body* [, provided the punishment be a suspension of more than thirty (30) days, or a reduction in grade or a removal or dismissal from the police or fire department, but the enforcement of the judgment of said body under such charges shall not be suspended pending said appeal].

(2) Upon the request of the party accused, the clerk of said body shall file a certified copy of the charges made and the judgment or the findings of the said body in the circuit court; which transcript having been filed, the cause shall be docketed in the circuit court and tried *as an original action* [de novo] by the judge of said court. Should the clerk of said body fail to certify and transmit the transcript aforesaid to the circuit court within five (5) days after the request is made for same, then the party aggrieved may file an affidavit in the said circuit court, setting out as fully as possible the charges made, the time of trial by said court and the judgment of said body, together with the statements of the facts that the demand for transcript had been made upon the clerk of said body more than five (5) days before the filing of said affidavit. Upon the filing of said affidavit in the circuit court, said cause shall be docketed in said court and the circuit court is hereby authorized to compel the filing of said transcript by said clerk by entering the proper mandatory orders, and by fine and imprisonment, as in cases of contempt. Such *action* [appeal] shall have precedence over other business and be taken up and determined speedily.

[(3) An appeal will lie from the judgment of the circuit court to the Court of Appeals, as in other cases, provided the punishment fixed by the body be suspension for more than sixty (60) days, reduction in grade, or removal or dismissal from the department.]

Section 123. KRS 95.787 is amended to read as follows:
Persons arrested for any bailable offense, in cities of the fourth or fifth class, may be placed in the station house, county jail or city jail for safekeeping, until taken before the [police] court for examination.

Section 124. KRS 95.800 is amended to read as follows:

(1) The police in cities of the sixth class shall be under the direction and control of the city marshal.

(2) The marshal shall have the powers of a sheriff for the suppression of any riot, disturbance of the peace, or resistance to law or authority. His lawful orders shall be promptly executed by deputies, police and watchmen of the city, and citizens shall lend him aid when required for the arrest of offenders and maintenance of public order.

(3) He may execute and return process issued to him by any legal authority. He shall receive the same fees as a constable for the service of process.

(4) He may, with the approval of the board of trustees, appoint deputy marshals. The only compensation of a deputy marshal shall be fees for service of process, which shall be the same as allowed to the marshal. The marshal and his sureties shall be responsible for the acts of his deputies.

(5) He may, with the approval of the board of trustees, appoint additional policemen necessary to preserve public order.

(6) He shall have charge of city prisoners, and of the chain gang if one (1) is established by the board of trustees.

[(7) He shall prosecute all violations of city ordinances before the police court.]

(7) [(8)] The marshal shall perform such other duties as the city ordinances require.

Section 125. KRS 96.926 is amended to read as follows:

(1) Any sewer user, or prospective sewer user, affected by the Second Ordinance may, within thirty (30) days after publication of the Second Ordinance, file an action in the circuit court of the county in which the city is situated attacking the validity of the Second Ordinance from the standpoint of whether the governing body acted in conformity with the procedures made mandatory by KRS 96.910 to 96.927. Provided, however, That if any aggrieved sewer user or prospective sewer user files in the office of the city clerk a written notarized statement of intent to file such an action, the time for filing actions in the circuit court shall be fifteen (15) days after such notice of intent to sue is filed with the clerk, or thirty (30) days after publication of the Second Ordinance, whichever is later.

(2) Proceedings in the circuit court shall be tried according to the practice prescribed for equity cases.

[(3) There shall be no appeal from the judgment of the circuit court, except as to constitutional questions.]

(3) [(4)] In the event an action is filed as provided for by this section, the effective date of the proposed sewer service charges as prescribed by the Second Ordinance shall be the date judgment is entered by the circuit court, if such judgment is favorable.

Section 126. KRS 98.010 is amended to read as follows:
The department of public welfare of cities of the first class shall be under the supervision and direction of a director to be designated director of welfare, and shall, except as otherwise provided by law, have exclusive control, under the acts of the general assembly and the ordinances of the legislative body of said cities, of all matters relating to the provision for and the supervision of the care of dependents and persons mentally deficient; the investigation of conditions that develop dependency, delinquency and mental deficiency; the education of the public regarding such conditions and the adoption of remedial measures; the supervision of public baths, comfort stations and cemeteries, the home for the aged and infirm, and the city workhouse; and may prescribe rules and regulations for the government and discipline of the inmates of the city's charitable and penal institutions [, including in such rules general provisions for the deduction, for good conduct, from the time of persons confined in such penal institutions by reason of a judgment of the police court of such city]; and the supervision of the maintenance at the University of Louisville of classes in social welfare in order to provide trained workers for service in said department; and such other matters as may by ordinance be placed under the control of the said department not in conflict with any act of the general assembly. The director of welfare shall have the power to organize the said department for administrative purposes into such divisions as may be necessary for the proper conduct of the business of said department, and to appoint heads or chiefs of such divisions, who, under the supervision and control of said director, shall have the direction of such divisions.

Section 127. KRS 104.010 is amended to read as follows:

(1) Whenever in the opinion of the fiscal court of any county the title to or any interest in real property within the county is needed for the purposes of flood control and the fiscal court cannot acquire such property by agreement with the owners thereof, whether by reason of disagreement as to the price or by reason of any other cause, the fiscal court shall adopt a resolution setting forth the foregoing facts and ordering the condemnation of the required property, giving a general description thereof, together with the names of the owners thereof where they are known to the fiscal court, and directing the county attorney to institute the proceedings. The condemnation proceedings shall be *pursuant to* [had in the county court under the procedure prescribed in] the Eminent Domain Act of Kentucky.

(2) The legislative body of any city shall have the same power to condemn real property, lying within or without the corporate limits of the city, for flood control purposes, as is given to the fiscal court of a county by subsection (1) of this section. The condemnation proceedings shall be instituted and prosecuted by the city attorney.

(3) This section is intended to constitute an alternate method of acquiring property for flood control purposes, in addition to, and not as a substitute for, any other method authorized by law.

Section 128. KRS 104.170 is amended to read as follows:

Whenever in the opinion of the governing body of any city, county, flood control, drainage, levee, reclamation or soil conservation district any land or other property or right of way or easement over or through any property, is needed by the city, county, flood control, drainage, levee, reclamation or soil conservation district to perform work or construct structures or improvements for flood control, flood protection or drainage purposes, or to permit others, including the United States of America or any governmental department, branch or agency thereof, to perform work or construct structures or improvements for flood control, flood protection or drainage purposes, either within or beyond the boundaries of the city, county, flood control, drainage, levee, reclamation or soil conservation district, the governing body may, by resolution reciting the need, order the condemnation of the land or other property, or right of way or easement, needed for such purpose or project, and may proceed to condemn and acquire title to any such land or other property, or right of way or easement, as provided by and pursuant to the provisions of the Eminent Domain Act of Kentucky, and as further provided by and pursuant to the provisions hereinafter set out:

(1) The judge of the *circuit* [county] court shall, upon the filing of a petition [by the city, county, flood control, drainage, levee, reclamation or soil conservation district, seeking condemnation of any of such land or other property, or right of way or easement for such purpose or project], grant and award immediate possession and full and complete use and control of said land or other property, or right of way or easement [to the city, county, flood control, drainage, levee, reclamation or soil conservation district] by an interlocutory judgment which shall be rendered immediately after the filing of the report by the commissioners duly appointed pursuant to the provisions of the Eminent Domain Act of Kentucky, and the *condemnor* [city, county, flood control, drainage, levee, reclamation or soil conservation district] shall thereupon be entitled to take possession thereof and to use and control the same for the purpose for which it is being condemned as fully as if the title had been conveyed to it; however, prior to the rendering of the interlocutory judgment, the *condemnor* [city, county, flood control, drainage, levee, reclamation or soil conservation district] shall be required to pay into court the sum awarded by the commissioners in their report for such land or other property, or right of way or easement. The court shall, after having rendered said interlocutory judgment, upon motion by the *condemnor* [city, county, flood control, drainage, levee, reclamation or soil conservation district] , make such orders as may be necessary and proper for the conveyance of title to such land or other property or property rights [to the city, county, flood control, drainage, levee, reclamation or soil conservation district], by a deed of conveyance therefor, to be executed by the regular court commissioner or a special commissioner appointed by the court for this purpose, which deed shall be executed as nearly as practicable in accordance with the rules governing the conveyance of property by commissioners when sold under order of court.

(2) The commissioners appointed pursuant to the Eminent Domain Act of Kentucky may report at any time after summons has been duly issued or warning order attorney appointed. Thereafter, either party may, before answer day, file written exceptions to said report, as provided in the Eminent Domain Act of Kentucky, except that the *condemnor's* [city's, county's, flood control, drainage, levee, reclamation or soil conservation district's] exceptions, if any, shall be made and filed prior to the entry of said interlocutory judgment. The sum not in controversy shall be paid or tendered to the parties defendant by the court prior to the entry of said interlocutory judgment.

(3) It is further provided that before rendering the interlocutory judgment, the court shall require the *condemnor* [city, county, flood control, drainage, levee, reclamation or soil conservation district] to execute a bond, with surety to be approved by the court, conditioned upon the *condemnor* [city, county, flood control, drainage, levee, reclamation or soil conservation district] paying to the parties defendant the difference between the sum paid into court and that which may thereafter be finally determined to be the value of the

property or property rights and incidental damages, if any, if the parties defendant except to the report of the commissioners, unless the *condemnor* [city, county, flood control, drainage, levee, reclamation or soil conservation district] shall have sufficient funds duly appropriated, properly allocated to that purpose, and on deposit to pay any money judgments, including all costs adjudged against the *condemnor* [city, county, flood control, drainage, levee, reclamation or soil conservation district,] that may thereafter be rendered against it, and such fact or facts shall be alleged in its petition for condemnation.

(4) The *condemnor* [city, county, flood control, drainage, levee, reclamation or soil conservation district] shall not be permitted to abandon the condemnation proceeding after having obtained possession and title to said land or other property or property rights unless none of the parties defendant will be materially prejudiced thereby.

(5) The proceedings for condemnation under the provisions of this section shall be conducted in the name of the city, county, flood control, drainage, levee, reclamation or soil conservation district by its regular attorney or by special counsel employed and designated by it to conduct such condemnation proceedings for such purpose, which power to employ and designate special counsel for such purpose is granted the city, county, flood control, drainage, levee, reclamation or soil conservation district.

Section 129. KRS 117.035 is amended to read as follows:

(1) There shall be a county board of elections, which shall, at the direction and under the supervision of the state board of elections, administer the election laws and the registration and purgation of voters within the county.

(2) The board shall consist of the county clerk, sheriff and two members appointed by the state board of elections not later than May 1 following the election of persons to statewide office, for a term of four (4) years and until their successors are appointed; provided, that the first board shall be appointed within one (1) month following December 1, 1972, and serve until successors are appointed in April, 1976. Where from any cause the county clerk or sheriff cannot act, the two (2) appointed members shall appoint a commissioner to serve during the period the county clerk or sheriff is ineligible. If the two (2) appointed members cannot agree on a substitute to function in place of the clerk or sheriff who becomes disqualified, such fact shall be certified to the state board within five (5) days and the board shall immediately appoint a person to serve during the period that such officer is ineligible. Service on the board of elections shall be compatible with the holding of any other county office. The members shall be at least twenty-one (21) years of age, qualified voters in the county from which they are appointed, and not a candidate to be voted for at the elections. One (1) member shall be appointed from a list of five (5) names submitted by the county executive committee of each of the two political parties that polled the largest number of votes in the state at the last preceding election for presidential electors. Appointees may be removed by the state board of elections for cause. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor. Compensation of members shall be set by the fiscal court at not less than fifteen dollars ($15) per day for each day the board meets.

(3) A majority of the board shall constitute a quorum. The county clerk shall serve as chairman of the meetings and may vote. In case of a tie, the chairman may cast an additional vote. Records shall be kept of all proceedings, and the records shall be public and kept at the office of the county clerk.

(4) The board shall meet at least once a month and may meet more frequently if necessary. The board shall stay in session on election days to correct clerical errors and rule on questions regarding voter registration and are authorized to make to the election officers such certifications as may be necessary. On said days appeals may be made to [the county judge or circuit judge, as the case may be, except that in cities of the first class all appeals shall be made to] a circuit judge.

(5) In counties containing cities of the first and second class, the board shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board.

Section 130. KRS 117.245 is amended to read as follows:

(1) The fact that a person is registered constitutes only prima facie evidence of his right to vote and does not prevent the officers of any election from refusing to allow him to vote for cause.

(2) When the officers of an election disagree as to the qualifications of a voter or if his right to vote is disputed by a challenger, the voter shall sign a written oath as to his qualifications before he is permitted to vote. The oath shall be in such form as prescribed by the state board of elections and twenty (20) printed copies shall be included in the election supplies of each precinct.

(3) The subscribed oaths shall be returned to the county clerk who shall deliver them to the grand jury [on the first day of the next term of circuit court].

(4) The Commonwealth's attorney and county attorney shall investigate each of the oaths and cause to be summoned before the grand jury the witnesses they or either of them, deem proper, and the grand jury shall make a thorough investigation of all votes so cast, and return indictments against all persons illegally voting. The foreman of the grand jury shall return to the county clerk all of the oaths upon which no

indictments are found. The clerk shall safely keep them as a part of the records of his office, and shall produce any or all of them, when required, to any subsequent grand jury.

Section 131. KRS 118.176 is amended to read as follows:

(1) A "bona fide" candidate means one who is seeking party nomination or election according to law.

(2) The bona fides of any candidate seeking party nomination or election as an independent may be questioned by any qualified voter entitled to vote for such candidate or by an opposing candidate by summary proceedings consisting of a motion before the circuit court [, or before the circuit judge if the court is in vacation,] of the judicial circuit in which the candidate whose bona fides is questioned resides. The motion shall be tried summarily and without delay [, and a hearing before the judge shall be considered a special term for the purpose]. Proof may be heard orally, and upon motion of either party shall be officially reported. If the circuit judge of the circuit in which the proceeding is filed is disqualified or absent from the county or is himself a candidate, the proceeding may be presented to, heard and determined by the circuit judge of any adjoining judicial circuit.

(3) In any action or proceeding under this section the burden of proof as to the bona fides of a candidate shall be on the person challenging the bona fides of a candidate.

(4) If the court finds the candidate is not a bona fide candidate it must so order, and certify the fact to the board of elections, and the candidate's name shall be stricken from the written designation of election officers filed with the board of elections or the court may refuse recognition or relief in a mandatory or injunctive way. The order of the circuit court shall be entered on the order book of the court and shall be subject to a motion to set aside in the Court of Appeals. The motion shall be heard by the Court of Appeals or a judge thereof in the manner provided for dissolving or granting injunctions, except that the motion must be made before the court or judge within five (5) days after the entry of the order in the circuit court, and may be heard and tried upon the original papers, and the order of the Court of Appeals or judge thereof shall be final.

(5) No person shall approach the circuit judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him.

Section 132. KRS 118.710 is amended to read as follows:

Except as provided in KRS 120.205, when a vacancy happens in the office of governor, requiring an election, a proclamation therefor shall be issued by the chief justice of the *Supreme* Court [of Appeals], or if he is absent from the state or unable to act, by one (1) of the associate justices. The proclamation shall be published pursuant to KRS chapter 424.

Section 133. KRS 120.065 is amended to read as follows:

Each party to a contest instituted under KRS 120.055 shall be entitled, in the production of evidence to be used on the trial thereof, to all the remedies allowed in cases at law and in equity. In trying the contest the court shall hear and determine all questions of law and fact without the intervention of a jury, and may examine the witnesses orally or require or permit the parties to take the evidence by depositions. If the evidence is taken orally either party may require it to be taken by the official reporter for the court, to be taken and transcribed and paid for as evidence in other civil actions. The court may require the contestant, or the person who has the burden of proof under the issue joined, to complete his proof in not less than fifteen (15) days after service of summons, and the contestee, or the person not having the burden, to complete his proof in not less than ten (10) days *after* filing an answer. Each party may be given one (1) day additional for producing evidence in rebuttal and no greater time shall be extended, unless the court is satisfied that the ends of justice demand it. The court shall, immediately after the evidence is concluded, consider the contest and determine it. If it appears from an inspection of the whole record that there has been such fraud, intimidation, bribery or violence in the conduct of the election that neither contestant nor contestee can be adjudged to have been fairly nominated, the court may adjudge that there has been no election, in which event the nomination shall be deemed vacant. The judgment of the court shall be filed in the office of the circuit court clerk [, and shall have the same force and effect as a judgment rendered by the court in term time].

Section 134. KRS 120.075 is amended to read as follows:

(1) Any party may appeal to the Court of Appeals from a judgment entered under KRS 120.065. The appeal shall be in accordance with the Rules of Civil Procedure, except that the notice of appeal shall be filed and a supersedeas bond executed in the circuit court, and the record shall be filed in the Court of Appeals, within ten (10) days after the entry of the judgment, or within such other time as the Court of Appeals may, for cause shown, permit. The entire original record shall be filed and no designation of record shall be required.

(2) Upon the filing of the record, the clerk of the Court of Appeals shall immediately deliver it to the chief *judge* [justice. If the Court of Appeals is in vacation at the time the record is filed, the chief justice shall call together the judges or a majority thereof, who shall hear and determine the appeal in the same manner

and with the same effect as if heard and tried by the court in regular session].

(3) The Court of Appeals in its discretion may issue its mandate forthwith after rendering its decision, but it shall be without prejudice to the right of the losing party to file a petition for rehearing or the power of the court to recall the mandate should the petition be sustained.

(4) If the judgment is reversed and the case remanded for trial or further action, the proceedings shall continue in the circuit court in like manner as when originally filed, beginning ten (10) days after the filing of the mandate with notice to the adverse party.

Section 135. KRS 120.095 is amended to read as follows:

(1) Any candidate who was voted for at a primary election held under KRS 118.015 to 118.035 and 118.105 to 118.255 may request a recount of the ballots by filing a petition so requesting, with the same court that contest petitions are required to be filed with, within fifteen (15) days after the day of the primary election, or, if such candidate is qualified to bring a contest proceeding under KRS 120.055, by including a request for a recount in his petition instituting the contest proceedings, and any candidate who is a contestee in a contest proceeding under KRS 120.055 may request a recount in his answer filed in the contest proceeding, but in such case the answer must be filed within five (5) days after the service of process on the petition. When a request for a recount is made the election commissioners whose duty it is to issue certificates shall be made parties defendant. The party requesting the recount must execute bond with approved surety for the costs of the recount, in an amount to be fixed by the circuit judge. Upon the bond being filed, the clerk shall immediately notify the circuit judge of the request and the filing of the bond, and the judge shall at once enter an order directing custody of the voting machines, the ballots, boxes and all papers pertaining to the election to be transferred to the circuit court, and fix a day for the recount proceedings to begin. A copy of the order shall be served upon the parties or their counsel in the same manner as notices are required to be served, which shall be deemed sufficient notice of the proceeding. On the day fixed, the court [or judge in vacation] shall proceed to recount the ballots if their integrity is satisfactorily shown and shall complete the recount as soon as practicable, and file and enter of record the results thereof, and direct the election commissioners whose duty it is to issue the certificates to issue the same to the party entitled thereto as shown by the recount.

(2) Any party may appeal from the judgment to the Court of Appeals, in the same manner as provided in KRS 120.075, all of the provisions of which statute shall be applicable.

(3) If a proceeding for recount is asked and prosecuted in a contest proceeding, it shall not await the preparation or trial of the contest in the circuit court or in the Court of Appeals. The action of the courts shall be final, concluding the parties as to the question of a recount of the ballots, and certificates shall then be issued to the parties entitled thereto.

Section 136. KRS 120.165 is amended to read as follows:

(1) A contest instituted under KRS 120.155 shall proceed as equity actions. Upon return of the summons properly executed to the office of the circuit clerk, he shall immediately docket the case and notify the presiding judge of the court that the contest has been filed. The judge shall proceed to a trial of the cause without delay. In courts having more than one (1) judge, the judge who shall try the case shall be determined by lot. The court [may be convened at any time, irrespective of the regular term, for the purpose of trying the case or any proceeding therein and] shall complete the *case* [same] as soon as practicable. The action shall have precedence over all other cases.

(2) The evidence in chief for the contestant shall be completed within thirty (30) days after service of summons; the evidence for the contestee shall be completed within twenty-five (25) days after filing of answer, and evidence for contestant in rebuttal shall be completed within seven (7) days after the contestee has concluded; Provided That for cause the court may grant a reasonable extension of time to either party.

(3) All voting machines, ballots, stub books and other papers concerning which there is any ground for contest may be removed to the court in which the action is pending.

(4) If it appears from an inspection of the whole record that there has been such fraud, intimidation, bribery or violence in the conduct of the election that neither contestant nor contestee can be judged to have been fairly elected, the circuit court, or *an appellate court* [the Court of Appeals], on appeal, may adjudge that there has been no election. In that event the office shall be deemed vacant, with the same legal effect as if the person elected had refused to qualify. If one of the parties is adjudged by the court to be elected to the office, he shall, on production of a copy of the final judgment, be permitted to qualify or be commissioned.

Section 137. KRS 120.185 is amended to read as follows:

(1) Any candidate who was voted for at a regular election for any of the offices to which KRS 120.155 applies may request a recount of the ballots by filing a petition so requesting, with the same court that petitions of contest are required to be filed with, within ten (10) days after the day of the election, or, if such candidate is qualified to institute a contest proceeding under KRS 120.155, by including a request for a recount

in his petition instituting the contest proceedings, but in the latter case the petition must be filed within ten (10) days after the day of the election. Any such candidate who is a contestee in a contest proceeding under KRS 120.155 may request a recount in his answer filed in the contest proceeding, but only if the answer is filed within ten (10) days after the day of election. If a request for a recount is made, the election commissioners whose duty it is to issue certificates of election shall be made parties defendant. The party requesting the recount must execute bond with approved surety for the costs of the recount, in an amount to be fixed by the circuit judge. Upon the bond being filed, the clerk shall immediately notify the circuit judge of the request and the filing of the bond, and the judge shall at once enter an order directing the voting machines, ballots, boxes and all papers pertaining to the election to be transferred to the circuit court, and fix a day for the recount proceedings to begin. A copy of the order shall be served upon the parties or their counsel in the same manner as notices are required to be served, which shall be deemed sufficient notice of the proceeding. On the day fixed, the court [or judge in vacation] shall proceed to recount the ballots if their integrity is satisfactorily shown and shall complete the recount as soon as practicable, and file and enter of record the results thereof, and direct the election commissioners whose duty it is to issue the certificates to issue the same to the party entitled thereto as shown by the recount.

(2) Any party may appeal from the judgment to the Court of Appeals, in the same manner as provided in KRS 120.075, all of the provisions of which statute shall be applicable.

(3) If a proceeding for recount is asked and prosecuted in a contest proceeding, it shall not await the preparation or trial of the contest in the circuit court or in the Court of Appeals. The action of the courts shall be final, concluding the parties as to the question of a recount of the ballots, and certificates shall then be issued to the parties entitled thereto.

Section 138. KRS 120.195 is amended to read as follows:

(1) No application to contest the election of a governor, lieutenant governor or member of the general assembly shall be heard unless written notice, signed by the party contesting, is given. The notice shall state the grounds of the contest, and none other shall afterwards be heard as coming from that party, but the contestee may make defense without giving counternotice.

(2) In the case of the governor or lieutenant governor, the notice must be given within thirty (30) days after the final action of the state board of elections. In the case of a member of the general assembly, the notice must be given within fifteen (15) days after the final action of the county board of election commissioners or the state board of elections, whichever canvasses the returns.

(3) Immediately after the notice, either party may proceed to take proof by depositions, under the same rules and regulations that govern the taking of depositions in actions in equity, except that no commission shall be required for taking a deposition out of the state. The depositions shall be sealed up by the officer taking them, and directed to the clerk of the senate or clerk of the house, as the case may require. The depositions properly taken shall be read as evidence before the board or branch of the general assembly having jurisdiction of the case, and such board or branch may call for and hear other proof. The taking of depositions to be used before a board or branch of the general assembly shall close ten (10) days before the next meeting of the general assembly, or, if in session when the notice is given, when the taking is ordered to close.

(4) The costs of the proceeding shall be adjudged against the unsuccessful party, and a certificate thereof shall be given by the clerk of the senate or the clerk of the house, as the case requires. A judgment for the costs may be obtained after five (5) days' notice in a circuit [or county] court.

Section 139. KRS 120.250 is amended to read as follows:

(1) Any elector who was qualified to and did vote on any public question, other than a constitutional amendment or a question of local option under chapter 242, submitted to the voters of any county, city or district for their approval or rejection may contest the election or demand a recount of the ballots by filing a petition, within thirty (30) days after the election, with the clerk of the circuit court of the county in which the election was held, which court shall have exclusive jurisdiction to hear and determine all matters in such cases. The petition shall be against the county, city or district in which the election washeld, and shall set forth the grounds of contest or reason for requesting a recount. The grounds of contest may be the casting of illegal votes, the exclusion of legal votes, the unfair or illegal conduct of the election, tampering with the returns, the alteration of the certificates of the results, bribery, fraud, intimidation or corrupt practices, or any conduct or practice tending to frustrate, obstruct or interfere with the free expression of the will of the voters. A copy of the petition shall be posted at the courthouse door and at one or more public places in the county, city or district in which the election was held. Summons shall be served on the defendant as in equity actions.

(2) Upon the petition being filed, the circuit clerk shall forthwith order the county board of election commissioners and the county clerk of the county involved in the contest to preserve and hold the ballots cast at the election on the question subject to the order of the circuit court [, and if the circuit court of the county in which the contest is filed is not in session at the time the petition is filed, the clerk shall immediately notify the circuit judge of the filing of the petition]. The court [or judge] shall, within five (5) days after the petition

is filed, determine whether there are sufficient grounds stated to justify the contest, and shall thereupon require the contestants to give bond for costs, and fix a time for the defendant to answer, not exceeding twenty (20) days.

(3) If the county, city or district affected fails to defend the action, any elector may become a defendant by filing an answer or other proper pleading within thirty (30) days after the filing of the petition, and by giving security for the costs in an amount to be fixed by the court. Any elector may join and assist the defendant in resisting the action by filing an application to do so and by giving security for such proportion of the costs as may be adjudged against him.

Section 140. KRS 120.260 is amended to read as follows:

If a recount of the ballots is requested in a proceeding instituted under KRS 120.250, and the court [or judge] has determined that the petition presents sufficient grounds, the court [or judge] shall immediately order the ballots of the precincts in which the recount is demanded sent to the courthouse of the county, in a manner designated in the order, and shall designate two (2) commissioners to assist in the recount. One (1) of the commissioners shall represent the contestant and one (1) the contestee. The attorneys representing the parties may be present at all hearings and at the recount of the ballots. The court shall pass on all disputes respecting ballots and shall ascertain the result of the election after counting all legal ballots.

Section 141. KRS 120.280 is amended to read as follows:

(1) Any elector who was qualified to and did vote on any constitutional convention, constitutional amendment or statewide public question submitted to the voters of the state for their ratification or rejection may contest the election or demand a recount of the ballots by filing a petition, not more than fifteen (15) days after the official canvass and the announcement of the vote for the state by the state board of elections, with the clerk of the Franklin Circuit Court, which court shall have exclusive jurisdiction to hear and determine all matters in such cases. The petition shall set forth the grounds of the contest. The contestant may fie with the clerk of the Franklin Circuit Court and the secretary of state a notice of his intention to contest the election before the announcement of the official count by the state board of elections and thereupon the secretary of state shall forthwith notify all the county boards of election commissioners in the counties involved in the contest to hold the ballots cast at the election on the question subject to the order of the Franklin Circuit Court. The notice shall be served by the secretary of state by mailing a true and certified copy of the notice of contest, and the order to hold the ballots subject to the order of the court, by registered mail or by certified mail, return receipt requested to the sheriffs of the counties in question, and the sheriffs shall forthwith acknowledge receipt thereof.

(2) [If the Franklin Circuit Court is not in session at the time the petition of contest is filed, the clerk of the court shall immediately notify the judge of the filing of the petition.] The *court* [judge] shall, within five (5) days after the filing of the petition of contest, determine whether there are sufficient grounds stated to justify the contest, and shall thereupon require the contestants to give bonds for costs. All of the hearings relating to the contest shall be held in the courthouse of Franklin County.

(3) The clerk of the Franklin Circuit Court shall cause a notice of the contest to be published pursuant to KRS chapter 424, setting out the substance or the grounds of contest alleged by the contestants.

(4) Any elector who participated in the election on the convention, amendment or statewide public question may make himself a party as contestee in the action by filing his petition to be made a party not later than five (5) days after the contest is instituted, and by giving bond of the costs as required of the contestant. If no elector makes himself a party to the contest, the Commonwealth's attorney for the Franklin Circuit Court shall attend the trial of the cause, and he may file such motions and pleadings in the cause on behalf of the Commonwealth as will insure a fair and honest determination of the contest.

(5) All laws relating to contested elections for state offices shall apply with equal force to contests of the character contemplated by this section, except as otherwise provided in this section and in KRS 120.290.

Section 142. KRS 120.290 is amended to read as follows:

(1) If a contest instituted under KRS 120.280 involves the recount of ballots, and the court [or judge] has determined that the petition of contest presents sufficient grounds, the court [or judge] shall immediately order the ballots of the counties and precincts in which the recount is demanded sent to the courthouse at Frankfort, in a manner designated in the order. The court [or judge] may appoint two (2) special commissioners to help make the recount, who shall receive three dollars ($3.00) per day and their actual traveling expenses, when approved by [the judge of] the Franklin Circuit Court. The attorneys representing the contestant and the Commonwealth's attorney representing the contestee may be present at all hearings on the recount. The contestant and contestee shall each be entitled to appoint one (1) inspector, who shall be allowed to witness the recount.

(2) The result of the recount of ballots shall be reported to the court [or judge] within three (3) days after it has been completed, together with all the disputed ballots and any ballots not counted. After inspecting

and passing on the disputed and uncounted ballots, the court [or judge] shall add such of them as are found to be legal to the number of legal ballots determined by the recount. If the court [or judge] finds that any ballots were procured by fraud, duress, bribery, intimidation, or for valuable consideration, they shall be rejected as illegal and void. If there has been such error, fraud or other irregularity as to make it impossible to ascertain the correct result in any precinct, the ballots from that precinct shall be thrown out and considered void. The vote from a precinct shall not be counted if the contestants prove that there was bribery or intimidation of the electors in that precinct and the court finds that the contestants were in the minority in that precinct and were not in any way implicated in the bribery or fraud complained of.

Section 143. KRS 132.040 is amended to read as follows:

(1) Each bank, trust company, combined bank and trust company and national bank doing business in this state shall file with the department of revenue on or before September 21 of each year a report setting forth the total amount of its deposits as of the preceding September 1 that would be taxable in the name of the depositor under the laws of this state, and shall, on or before November 1 of each year, pay to the department one-thousandth of one per cent (.001%) of the amount of such deposits, and may charge to and deduct from the deposit of each depositor the amount of the tax so paid on his behalf. A lien is hereby given to the banks and trust companies on the funds belonging to the respective depositors on which the tax has been so paid. Any claim for taxes against the depositor by the bank or trust company paying the taxes shall be asserted within six (6) months after the payment of the taxes to the department, and all claims or liens therefor shall be thereafter barred.

(2) Each bank or trust company that wilfully fails to make the returns or to pay the taxes on behalf of its depositors shall forfeit to the state an amount equal to one-tenth of one per cent (.1%) of such deposits for each month's delay in filing the return or in paying the tax. The tax and forfeitures may be recovered in an action commenced by the county attorney in the *proper* [county] court of the county in which the bank or trust company is located, but if the department of revenue or the court in which the action is heard becomes satisfied that the failure was not wilful, the department or the court may waive any part or all of the penalty.

Section 144. KRS 132.330 is amended to read as follows:

The field agents, accountants and attorneys of the department of revenue shall cause to be listed for taxation all property omitted by the property valuation administrators, board of supervisors, department or any other assessing authority, for any year omitted. The agent, accountant or attorney proposing to have the property assessed shall file in the office of the county clerk of the county in which the property may be liable to assessment a statement containing a description and value of the property or corporate franchise proposed to be assessed, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, if known, and the year the property was unassessed. The county clerk shall thereupon issue a summons against the owner, or person in possession of the property if the owner is unknown, to show cause before the next regular term of the county court that does not commence within five (5) days after the service of the summons, why the property or corporate franchise shall not be assessed at the value named in the statement filed. No *decision* [judgment] shall be rendered against the alleged owner unless the statement filed contains a description of the property sought to be assessed that will enable the court to identify it. The summons shall be executed by the sheriff by delivering a copy thereof to the owner, or if he is not in the county to his agent, attorney or person in possession of the property. If the property is real property, and the owner is known but is absent from the state and has no attorney or agent in this state and no one is in possession of the property, the summons shall be served by posting it in a conspicuous place upon the property; if the property consists of tangible personal property the summons shall be placed in a conspicuous place where the property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown and no one (1) has possession of the property, an action for assessment shall be instituted by filing the petition above mentioned and procuring constructive service against the owner under the provisions of rules 4.05, 4.06, 4.07 and 4.08 of the Rules of Civil Procedure. In all of the above cases an attachment of the property omitted from assessment may be procured *from the district court* against the owner, at the time of the institution of the action or thereafter, and without the execution of a bond by the Commonwealth or its relator, by the representative of the department of revenue making an affidavit that the property described in the petition is subject to state, county, school or other taxing district tax, and is unassessed for any taxable year.

Section 145. KRS 132.340 is amended to read as follows:

(1) At the next regular term of the county court after the summons has been served for five (5) days, or the warning order against the defendant whose name and place of residence are unknown has been made for thirty (30) days, if it appears to the court that the property is liable for taxation and has not been assessed, the court shall enter an order fixing the value at the fair cash value estimated as required by law. The court shall certify the assessment of the property and its value, together with such other facts as may be required by law

or directed by the court to appear in the *order* [judgment], to the department of revenue and to the sheriff of the county, together with the amount of penalty and cost of assessment, in order that the taxes due the state, county, school or any other taxing district may be collected, with the penalty and costs. If the property is not liable for taxes, the court shall make an order to that effect. [The judgment of the court shall have the same force and effect as the judgment of the court in civil cases.] Either party may appeal from the decision of the county court to the circuit court, and then to the Court of Appeals as in other civil cases, except that no appeal bond shall be required where the appeal is by the commissioner of revenue acting as the relator.

(2) If the owner of the property fails to pay the tax assessed, interest, penalties and costs, the lien under the attachment may be enforced and a sufficiency of the property sold to pay the obligation to the state, county, school or other taxing district. All persons owning property that is assessed as herein provided shall, in addition to the taxes and interest from the time the taxes should have been paid, pay the costs of the proceedings and a penalty of twenty per cent (20%) on the amount of the taxes due, except where the property was duly listed and the taxes paid thereon within the time prescribed by law, and except where some different penalty is expressly provided by law.

(3) The taxes, costs and penalties shall be collected and accounted for as other taxes and penalties are required to be collected, and by the same officers. The county clerk shall enter all such assessments in a book to be kept for that purpose, showing the date of the assessment, the name of the person against whom the assessment is made, the location and description of the property assessed, and the value thereof. The officer collecting the taxes shall, when they are paid, notify the clerk of the payment, and the payment shall be noted by the clerk opposite the entry of the assessment.

Section 146. KRS 132.570 is amended to read as follows:

(1) No person shall wilfully make a false statement, or, to avoid taxation, make a temporary investment in securities exempt from taxation, or convert any intangible property into nontaxable property outside of this state, or resort to any device to evade taxation. Any person doing so shall be subject to three (3) times the amount of tax upon his property, to be recovered by the sheriff by action in the name of the Commonwealth in the county in which the property is liable for taxation, or by the department of revenue, when the taxes are payable to it, in the Franklin Circuit [or quarterly] Court.

(2) No person shall transfer or assign of record any mortgage note, bond or other evidence of indebtedness, secured by any recorded instrument, for the sole purpose of evading the taxes thereon.

Section 147. KRS 133.130 is amended to read as follows:

(1) Any person claiming to be erroneously charged with any tax upon property not owned by him may, at any time not later than the next regular county court after he has received notice of the same by demand made upon him to pay the tax, offer evidence in support of the complaint to the county court of the county in which the assessment was made. If the court finds that he was not the owner of the property assessed, it may correct the same by releasing him from the payment of the tax, and the court order exonerating the tax shall, upon delivery of a copy thereof to the property valuation administrator, constitute an order to have the property immediately listed against the rightful owner.

(2) An appeal may be taken *to the circuit court* from any final order of the court made under this section or under KRS 133.110. The court shall certify its actions to the department of revenue and sheriff. The sheriff shall not receive credit under this section unless copies of the judgments are furnished to the department by June 1 after the judgments are entered.

Section 148. KRS 134.310 is amended to read as follows:

(1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court, before making settlement with the department of revenue. At the regular October term each year the fiscal court shall appoint some competent person other than the Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The report of this settlement shall be filed in the county clerk's office and approved by the county court. The settlement shall show the amount of poll tax and ad valorem tax collected, and an itemized statement of the money disbursed.

(2) The settlement shall be published pursuant to KRS chapter 424. The report of the settlement shall be subject to *objections* [exceptions] by the sheriff or by the county attorney, who shall represent the state and county, and the county court shall [try and] determine the *objections* [exceptions].

(3) *Either party may institute an action in circuit court to correct the settlement.* [An appeal may be prosecuted by either party from the judgment of the county court on the settlement, in the same manner as provided by law for appeals from judgments of the quarterly court, except that the county attorney shall not be required to give an appeal bond; or actions may be instituted in any court of competent jurisdiction to correct the settlement.] The settlement, when approved, shall be recorded in the county clerk's office.

(4) On the final settlement the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300.

(5) In counties containing a population of less than seventy-five thousand (75,000) the sheriff shall file annually with his final settlement:

(a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county and school taxes; and

(b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

Section 149. KRS 134.320 is amended to read as follows:

(1) The sheriff shall, by the tenth day of each month, or more often as may be required by the department of revenue to prevent the sheriff from having funds in his possession in excess of the amount of his bond, report under oath to the department the amount of all state taxes he has collected during the preceding month, or for such period as the department may require.

(2) The sheriff shall, at the time of making this report, pay to the department, for deposit with the state treasurer, all taxes he has collected for the state for the preceding month or period.

(3) The department may report to the grand jury of Franklin County [at each term of circuit court] any sheriff failing to report as required. Any sheriff failing to pay over any taxes collected by him and due the state, as provided by law, shall be required by the department to pay a penalty of one per cent (1%) for each thirty (30) day period or fraction thereof plus interest at the legal rate per annum on such taxes. The department in its settlement with the sheriff shall charge him with such penalties and interest.

(4) The department of revenue may grant an extension of time, not to exceed fifteen (15) days, for filing the report required by subsection (1) whenever, in its judgment, good cause therefor exists. The extension shall be in writing, and the department shall keep a record of such extensions. The extension when granted shall suspend the penalty and interest provided by subsection (3) for the duration of the extension. The penalty and interest shall apply at the expiration of the extension.

Section 150. KRS 134.340 is amended to read as follows:

(1) The sheriff shall, when he collects money from a delinquent taxpayer, record the tax, interest and penalty on his record book kept for that purpose.

(2) If the sheriff fails to record the money collected from a delinquent taxpayer, or fails to collect the tax due from a delinquent taxpayer if it was collectible by sale or otherwise when it came to his hands, he shall be held liable on his bond for the amount of tax, penalties, interest and costs due from the delinquent taxpayer that was collectible, plus thirty per cent (30%) penalty thereon, to be recovered in the *circuit* [county] court of the county in which the tax is due, on motion of the county attorney or agent of the department of revenue in the name of the state. The county attorney shall prosecute all such motions, for which services he shall be entitled to the penalties thereon recovered of the sheriff, but only if the tax, interest, costs, and penalties due are recovered and paid to the officers entitled to receive the same. The sheriff shall have ten (10) days' previous notice of the motion.

Section 151. KRS 134.485 is amended to read as follows:

Whenever an encumbrance by reason of a tax claim exists on land which is divided both as to ownership and area into two (2) or more tracts, any person or persons owning any of such tracts may make application, upon ten (10) days' notice given to the owners of the other tracts and the county attorney, to the county court of the county for an apportionment of the assessment, and said court is authorized to make an apportionment of the amount of the encumbrance among the owners of each tract according to the value of their respective interests as shown by the proof introduced by them. Any owner of a tract for which the tax claim was apportioned may have the encumbrance on his property released therefrom by paying to the officer or person to whom such taxes are payable his pro rata share thereof as ascertained by the judgment of apportionment. Said *determination* [judgment] shall be final unless an appeal therefrom to the circuit court [, which is hereby given appellate jurisdiction,] is prosecuted within sixty (60) days from rendition of such judgment. [Appeal may be taken to the Court of Appeals of Kentucky if instituted within thirty (30) days after the judgment of the circuit court.]

Section 152. KRS 135.010 is amended to read as follows:

(1) If the sheriff or other person having any taxes or public dues in his hands for collection believes another person to be indebted in money, property or other thing of value to the person owing the taxes or public dues, and believes he cannot otherwise collect the taxes or public dues, he shall sign and deliver or cause to be delivered to the person owing the taxes or public dues and to the person owing him, anywhere he may be found, written notice in substance as follows:

"Mr. A B: The taxes due by C D amount to the sum of $..... To that extent you are notified not to pay or deliver to him any money, property or other thing of value that you now owe or may hereafter be indebted to him, and to appear before the *circuit* [county] court of .... county, on the .... *day of ...., 19....* [first day of its next term], to show cause why you should not be adjudged to pay said taxes. This .... day of ...., nineteen ...."

(2) All persons indebted to the person owing the taxes may be included in the same notice, though residing out of the county of the sheriff or collector. If necessary to the interest of the state, the court may cause other persons to be made parties to the proceedings.

Section 153. KRS 135.020 is amended to read as follows:

(1) The notice referred to in KRS 135.010 shall operate to enjoin the person named in it from paying money, property or any other thing of value owing at the time of the service or accruing thereafter, in the amount mentioned in the notice, until the matter is heard by the *circuit* [county] court. The proceedings shall be docketed in the name of the state. On the hearing by the [county] court, the court may hear evidence, and the person named in the notice shall be compelled to disclose in open court all matters of account and indebtedness, whether of money, property or labor, owing at the date of the notice or incurred thereafter.

(2) The taxpayer may defend by showing that the property on which the tax claim is based has never been assessed, or that the property is not subject to taxation, or that the taxes have been paid, but it shall not be sufficient to show a defective assessment merely.

(3) The judgment shall provide for the payment of the taxes due, and shall direct the person named in the notice to pay or deliver to the sheriff or collector any money, property or other thing of value due the taxpayer at that time or at the time the notice was served, to the extent of the taxes and costs, or to the extent of his liability, including such liability as accrued after notice though paid or discharged. If it is property, the sheriff or collector shall sell it, after advertising by handbill posted at the courthouse door for ten (10) days. If the person named in the notice fails to attend or to make disclosure, the court shall render judgment against him for the full amount due from the taxpayer.

(4) The person owing taxes shall not be discharged from liability for them until they are fully paid, or the amount thereof is realized under the attachemnt proceedings.

Section 154. KRS 135.030 is amended to read as follows:

(1) Each circuit court clerk [, county judge, police judge and justice of the peace] shall, *after the expiration of* [within] ten (10) days *from the rendition of judgment in favor of the state, unless otherwise ordered by the court* [after the adjournment of each term of court during which any judgment in favor of the state was rendered], issue proper process and place it in the hands of the sheriff on all such judgments that have not been paid or replevied in the office or remitted or respited by the governor, and each such clerk [and judge] shall, within ten (10) days after the maturity of each replevied bond on any such judgment entered in the court of which he is clerk [or judge], issue executions and place them in the hands of the sheriff. Upon an execution so issued upon any replevied bond being returned by the sheriff without making the money, the officer who issued it shall reissue executions and place them in the hands of the sheriff from time to time at least once every ten (10) months for a period of five (5) years, and as often thereafter as demanded by the Commonwealth's attorney, county attorney, sheriff or circuit court clerk. Upon all such judgments, executions or capias pro fine that are stayed or respited by the governor, the clerk [or judge] of the court in which the judgment has been entered shall issue proper process and place it in the hands of the sheriff within ten (10) days after the expiration of the stay or respite. A receipt shall be taken from the sheriff for all process placed in his hands pursuant to this section.

(2) Upon the failure of any circuit court clerk [, county judge, police judge or justice of the peace] to discharge his duties as required in this section, he shall be held responsible on his official bond for the amount of the judgment, interest and costs to which such failure is applicable.

(3) Nothing in this section shall authorize the governor to remit any judgment unless it is a fine imposed as a punishment. K

Section 155. KRS 135.080 is amended to read as follows:

(1) When an action is brought in the Franklin Circuit Court against a sheriff or clerk, or against the sureties on his official bond, or against his heirs, devisees or representatives, or against any other person required to pay money into the state treasury or to do any other act required by law to be done in connection with the payment of money into the state treasury after it has been collected, the department of revenue shall, twenty (20) days before the *trial* [first day of the term of court], mail to the defendant in the action, directed to him at the courthouse of his county, a notice in writing stating the amount judgment will be asked for and the time the court will be held. The department shall file a copy of this notice, with the name of the person to whom sent and the time when and the place where sent, with the clerk of the court, to be filed by him and kept with the papers in the action.

(2) The court, without further notice to the parties, shall proceed with the action [, which shall be docketed for trial on the third day of the term]. The department shall file with the clerk of the court a

memorandum of the names of the parties, the amount due from each defaulter against whom judgment is demanded, and a copy of the bond if any. The clerk shall docket the action in the order in which the names stand on the memorandum.

(3) Judgments, when given against the defendants in the cases referred to in this section, shall be for the principal due with interest at the rate of ten per cent (10%) per annum from the time the amount was due until paid.

Section 156. KRS 140.160 is amended to read as follows:

(1) The department of revenue shall have full supervision of the collection of all taxes due under the provisions of this chapter, including the power to institute suit in this and other states. It may employ attorneys and other persons necessary to carry out the full intent and purpose of this chapter. The department shall furnish, upon application, blank forms covering such information as may be necessary to determine the amount of tax due the state on the transfer of all property subject to tax.

(2) The department may cause personal representatives or beneficiaries to file all statements required by this chapter with the clerks of the proper courts and with the department, and may require them to furnish any additional information deemed necessary to support the computation of the amount of tax that should be paid by the estate. The personal representative shall in every case, when he files his inventory in the *district* [county] court, file a duplicate thereof with the department. The personal representative shall compute the taxes imposed by this chapter on the tax return provided by the department. Such tax return shall be filed with the department within 18 months after the death of the decedent or at the time payment of the tax is made pursuant to KRS 140.210.

(3) Except as herein provided, no action to enforce the collection of the tax imposed by this chapter shall be commenced more than ten (10) years after the cause of action first accrued. In case the settlement of an estate is delayed because of litigation or other unavoidable cause, as described in subsection (1) of KRS 140.210, such delay shall suspend the limitation, prescribed by this subsection, until the cause of delay is removed. In the case of a fraudulent return or any other fraudulent representation affecting the amount of or the liability for the tax imposed by this chapter notwithstanding any provision of limitation provided elsewhere, the tax due by reason thereof may at any time be assessed and collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 157. KRS 140.170 is amended to read as follows:

(1) The *district* [county] court, upon the request of the personal representative or any interested party, shall appoint some competent person as appraiser of the estate. The appraiser shall give notice to all persons having an interest in the estate and to such other persons as the court may by order direct, and shall then appraise the property belonging to the estate. His report shall be filed with the [county] court and a copy thereof with the department of revenue. He shall be paid for his services out of the funds of the estate, on the certification of the [county] court, the amount to be fixed by that court. The total compensation of the appraiser shall not exceed one-tenth of one per cent (.1%) of the total appraised value of the estate for inheritance tax purposes, but there shall be a minimum allowance of five dollars ($5.00), together with the appraiser's actual and necessary traveling expenses.

(2) After investigation, the department may change the value of the estate for inheritance taxes and advise the representatives of the estate of this changed valuation after the receipt of a completed tax return and full payment as shown by the tax return.

(3) No appraiser shall accept any fee or reward from a personal representative, trustee, legatee, next of kin or heir of the decedent, or from any other person liable to pay the tax or any portion thereof.

(4) No person shall wilfully and knowingly subscribe to or make any false statement of fact, or knowingly subscribe to or exhibit any false paper or false report with intent to deceive any appraiser.

(5) The department shall keep a record of all returns, reports, and schedules attached thereto required by this chapter for twelve (12) years.

Section 158. KRS 140.270 is amended to read as follows:

(1) In the absence of administration in this state upon the estate of a nonresident, the department of revenue, at the request of a personal representative duly appointed and qualified in the state of the decedent's domicile, or of a grantee under a conveyance made during the grantor's lifetime, and upon satisfactory evidence furnished by the personal representative or grantee, or otherwise, may determine whether or not any property of the decedent within this state is subject to the provisions of this chapter. If so, the department may determine the amount of tax and adjust the same with the personal representative or grantee, and for that purpose may appoint an appraiser to appraise the property. The expense of appraisal shall be charged upon the property in addition to the tax. The department's certificate of the amount of tax and its receipt for the amount therein certified may be filed in the county court of the county where the property is located, and when so filed shall be evidence of the payment of the tax to the extent of such certification. When the tax is

not adjusted within six (6) months after the death of the decedent, the proper *district* [county] court, upon application of the department, shall appoint an administrator in this state.

(2) When evidence of ownership of intangible personal property belonging to a nonresident decedent is found to be physically located in this state, the department of revenue shall so inform the state official collecting death tax in the state of domicile of the decedent, if that state furnishes like information to the department of revenue of this state in a reciprocal manner.

Section 159. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

[(a) A tax of four dollars ($4.00) on each verdict of a petit jury in civil cases in circuit court;]

(a) [(b)] A tax of three dollars and fifty cents ($3.50) on each marriage license;

(b) [(c)] A tax of two dollars and fifty cents ($2.50) for each survey consisting of ten (10) acres or less, and of five dollars ($5.00) for each survey in excess of ten (10) acres, on the filing and registering of a plat and certificate of survey and issuing and recording patent thereon, to consist of one (1) charge which shall be paid before the survey is filed, but not to apply to a survey heretofore filed in the registrar's office;

(c) [(d)] A tax of one dollar ($1.00) on each power of attorney to convey real or personal property; on each mortgage, financing statement, security agreement or conveyance of real or personal property, and on each lien or conveyance of coal, oil, gas or other mineral right or privilege; except that no tax shall be paid on any chattel mortgage, financing statement or security agreement unless the amount thereof exceeds two hundred dollars ($200);

(d) [(e)] A tax of one dollar ($1.00) for issuing a land warrant;

(e) [(f)] A tax of one dollar ($1.00) for each official certificate with seal of office affixed;

(f) [(g)] A tax of fifty cents (50¢) on the seal of a court required by law to keep a seal, except for the purpose of issuing a license authorized by the state;

(g) [(h)] A tax of fifty cents (50¢) for a copy of a plat; for a copy of a course and distances of a patent or survey; and for a copy of an entry or land warrant;

(h) [(i)] A tax of twenty-five cents (25¢) for filing a caveat; for filing a copy of a judgment of a court in a case of a caveat, mandamus or other proceeding affecting the land office or the duties of the secretary of state with respect thereto; and for a copy of an assignment;

(i) [(j)] A tax of two cents (2¢) for each twenty (20) words of a copy of a caveat or a copy of any writing not specifically provided for.

(2) The tax imposed by this section shall be due and payable when the process or instrument is filed or issued, or copies thereof furnished. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

Section 160. KRS 148.121 is amended to read as follows:

(1) The commission may condemn any land or any interest in land within areas designated by the United States for park sites. Condemnation proceedings shall be exercised in accordance with the *Eminent Domain Act of Kentucky* [statutes generally governing condemnation proceedings]. No condemnation proceedings shall impose on the state any liability for which provision has not previously been made. The commission shall also pay the expenses of condemnation proceedings, judgments and awards in condemnation proceedings, and other expenses necessary to acquire property.

(2) The action shall be brought in the *circuit* [county] court where the property lies by the attorney general, and the county attorney of that county at the direction of the attorney general shall assist in the prosecution of said action [in the county and circuit courts].

(3) It shall not be mandatory for the commission to take the property at the price fixed by the jury or court judgment. However, in case the commission does not take the property, and perform all requirements of the judgment rendered by the court, then and in that event said commission shall pay the property owner all expenses as he may have incurred incident to the law suit, including attorney's fees, and the property owner may have judgment in the original action upon filing proper proof thereof with the court.

Section 161. KRS 149.540 is amended to read as follows:

(1) After January 1, 1959, all counties receiving state forest fire protection and all counties having received notice of the intended establishment of such service shall annually pay to the division a sum equivalent to two cents (2¢) per acre of privately owned timberlands according to the United States Forest Reappraisal Study of 1962 to 1964, subject to additions and deductions of acreage since the making of such study. Such payments shall be due and payable on September 15 following the assessment.

(2) Contributions may be met out of the general funds of the county and in addition the fiscal court may require each owner of timberland in the county to participate directly by paying into a special county forest fire protection fund an assessment not exceeding three cents (3¢) per year for each acre of timberland of which he is the owner.

(3) In any case in which the division and the governing body of any county cannot agree upon the additions or deductions to privately owned forest acreage in a particular county, or to changes in forest acreage from year to year, the question shall be submitted to the judge of the circuit court of the county by a summary and informal proceeding, [in term or vacation,] and a decision of the judge, certified to the governing body and to the division respectively, shall be conclusive and final.

Section 162. KRS 159.220 is amended to read as follows:

Any child committed to a parental or truant school upon an order duly entered by the *juvenile session of the district* [county] court may be allowed to return home and remain there upon probation, subject to the friendly visitation and supervision of a probation officer [of the county court]. If the child, in the opinion of the *juvenile session of the district* [county] court, violates the terms and conditions of probation, he shall be returned to the school. No child shall be released upon probation in less than four (4) weeks from the time of his commitment, nor shall a child be thereafter released upon probation unless the court is satisfied that the child will attend regularly some public or private school. If any child so released upon probation is regular in his attendance in school, and his conduct as a pupil is satisfactory for a period of one (1) year from the date upon which he was released upon probation, he shall be finally discharged from the parental or truant school, and shall not be recommitted thereto, except in a subsequent proceeding undertaken according to the provisions of this chapter and of the statutes concerning neglected, dependent and delinquent children.

Section 163. KRS 159.230 is amended to read as follows:

Any child released from a parental or truant school upon probation as provided in KRS 159.220 who violates the conditions of his probation at any time within one (1) year thereafter shall, upon the order of the *juvenile session of the district* [county] court, be returned to the parental or truant school and shall not again be released upon probation within a period of three (3) months from the date of re-entering. If such child violates the conditions of a second release upon probation, he shall be recommitted to the school and shall not be released therefrom on probation until he has remained in the school one (1) year.

Section 164. KRS 167.990 is amended to read as follows:

(1) Any person who violates KRS 167.090 shall be fined not less than fifty (50) nor more than one hundred dollars ($100) for the first offense and not less than one hundred (100) nor more than two hundred dollars ($200) for a subsequent offense.

(2) Any person who violates KRS 167.110 shall be fined not more than fifty dollars ($50.00) or imprisoned in the county jail not more than thirty (30) days, or both.

(3) The *district* [county] courts shall have exclusive jurisdiction of prosecutions for violating KRS 167.090 and 167.110.

Section 165. KRS 172.180 is amended to read as follows:

Any county [containing a city of the second, third or fourth class] may adopt the following method of financing the cost of operation and maintenance of the county law library, in lieu of the method set out in KRS 172.130 or KRS 172.170:

(1) Upon petition of three-fourths (¾) of the duly licensed and practicing attorneys resident in the county addressed to the circuit judge of the county, to the effect that they, as officers of the various courts of the county, recognize the need of a more adequate county law library, there being attached to said petition an attested copy of a resolution of the fiscal court of the county indorsing the adoption of this optional method of financing the cost of operation and maintenance of the county law library, the circuit judge shall enter an order [upon the official order book of the circuit court of the county] noting that said optional plan for the financing of the cost of operation and maintenance of the county law library has been adopted.

(2) The order shall set forth the name of each duly licensed and practicing attorney signing said petition, and the county court order book and page number containing the resolution of the fiscal court.

(3) The order shall direct the following:

[(a) That the clerk of the circuit court shall forthwith cause to be delivered to the clerk of every court in the county, including quarterly, county, justice's, and city or police courts, a certified copy of the order;]

(a) [(b)] That upon receipt of the order by the clerks of said courts there shall be taxed as costs in all *criminal* actions, except examining trials and felony trials, thereafter instituted in said court [s] the following fee, which shall be designated as county law library fee, [:] in *district* [quarterly, county, justice's, and city or police] court [s], a sum not to exceed fifty cents (50¢) [; in circuit courts, on all civil actions a sum not to exceed one dollar ($1.00); and on all misdemeanor trials, a sum not to exceed fifty cents (50¢)]; and

(b) [(c)] That the *circuit* clerk [s of the various courts] shall at the end of each month, pay all sums collected as county law library fee [in their respective courts,] during the preceding month, to the trustees of the county law library, and the clerk [s] shall make a full report with said payment, and receive a receipt for all payments.

Section 166. KRS 177.082 is amended to read as follows:

The Commonwealth of Kentucky, bureau of highways, when seeking to condemn lands and material and the use and occupancy of lands, under the provisions of KRS 177.081, shall direct the county attorney or any attorney authorized to represent the Commonwealth to file a petition in the office of the *circuit* [county] court clerk in the county in which all or the greater portion of the land or material is located. If any authorized attorney, other than the county attorney, is directed to file the petition, the county attorney shall assist in the prosecution of the action. The petition shall be filed in the name of the Commonwealth of Kentucky, bureau of highways and may join as plaintiff the county in which any part of the property is situated, or in which the petition is filed, or any municipality thereof.

Section 167. KRS 178.080 is amended to read as follows:

(1) When any person desires the establishment or alteration of a public road, bridge or landing, he shall petition the county court setting forth in his petition specifically the nature and location of the proposed work. The court shall thereupon appoint two (2) viewers who, together with the county road engineer, shall view the ground and report in writing the advantages and disadvantages which, in their opinion, will result to the individual and to the public from the proposed work and the grades and bearings of the proposed road, and other facts and circumstances that may enable the county court to determine whether the work ought to be undertaken by the county.

(2) If the petition is for the establishment or alteration of a public road leading from a main public road, the report shall set out whether such road should be established, stating specifically whether it would be necessary to take any burying ground, garden, yard, orchard, or any part thereof, or to injure or destroy any buildings and the probable cost of the work, the names of the landowners whose property would have to be taken or injured, which of them would require compensation and the probable amount to which each would be entitled. They shall make careful examination of routes or locations other than that proposed or petitioned for, keeping in view the possible future development of the county and the accommodations of the general traveling public, and shall report in favor of the one they prefer, giving reasons for the preference. A map giving the grades and bearings of the routes or locations shall be returned with the report.

(3) If it appears to the county court that the interests of the general public may be furthered thereby, the county court shall personally examine the proposed work. If the court decides to undertake the proposed work the county judge shall appoint a day for hearing the parties interested, and cause notices thereof to be given to [the proprietors and tenants of the property which would have to be taken or injured, to show cause against the same. Process shall be issued by the county clerk against] all interested parties [and he shall issue a warning order, upon proper affidavit, against any nonresident and make such orders against persons under disability as provided in the Rules of Civil Procedure].

(4) If the court at any time has sufficient evidence before it to enable it to ascertain what would be a just compensation to the proprietors and tenants, and if the proprietors and tenants are willing to accept what the court deems just, the court, upon such acceptance being reduced to writing and signed by the proprietors and tenants, may determine to undertake the work, subject to the consent and approval of the fiscal court.

Section 168. KRS 178.100 is amended to read as follows:

[(1)] From a decision of the county court ordering a new road to be opened, or ordering an alteration or discontinuance of an existing road, or allowing gates to be erected across a road or abolishing existing gates, or a decision refusing any such order, the party aggrieved may *bring an original action in* [appeal to] the circuit court *to contest the decision of the fiscal court* [within sixty (60) days by executing bond as in other cases, and on appeal the case shall be tried de novo.

(2) From the decision of the circuit court either party may appeal to the Court of Appeals].

Section 169. KRS 182.020 is amended to read as follows:

(1) Any person owning land upon a watercourse may erect a wharf on his land, or a pier or bulkhead in the watercourse opposite his land, but he must not obstruct navigation nor injure the private rights of any person in doing so.

(2) If the *circuit* [county] court of the county in which the wharf, pier or bulkhead is located, believes that the wharf, pier or bulkhead obstructs navigation or encroaches on any public landing so as to prevent the free use thereof, the court may abate it.

[(3) Before abating the wharf, pier or bulkhead, as provided in subsection (2) of this section, the court shall give ten (10) days' notice to the owner thereof, of its intention to consider the subject.]

Section 170. KRS 182.180 is amended to read as follows:

The commissioners appointed in the condemnation proceedings shall present a signed report to the [county] court, showing:

(1) . What ought to be the height of the proposed dam, or how much the existing dam ought to be raised;

(2) Whether the mansion-house of any person, or the outhouses, yard, garden, or orchard, will be taken or overflowed;

(3) Whether and to what degree ordinary navigation and the passage of fish will be obstructed, and by what means such obstruction may be obviated;

(4) Whether the health of the neighbors will be injured by the stagnation of the water or otherwise;

(5) By metes and bounds, how much of the land, not exceeding one (1) acre, which is not owned by the applicant or covered by the bed of the stream, will be needed for the dam and abutment, and not exceeding one hundred (100) feet in width, the land that may be needed for the canal, and what will be a just compensation to each owner therefor;

(6) What lands will probably be overflowed or deprived of water, or otherwise injured by the dam or canal and what will be a just compensation to the respective owners therefor;

(7) Whether the mill or factory will be useful to the public.

Section 171. KRS 183.133 is amended to read as follows:

(1) The purpose of the board shall be to establish, maintain, operate, and expand necessary, desirable or appropriate airport and air navigation facilities. It shall have the duty and such powers as may be necessary, or desirable to promote and develop aviation, including air transportation, airports and air navigation facilities.

(2) The board shall establish and fix reasonable rates, charges and fees for the use of the landing area, ramps and other common aviation facilities. In fixing such rates, charges or fees the board may take into consideration, among other factors, the total capital investment by the board or other local or state governmental authority, the revenue needed properly to maintain such facilities, the revenue needed properly to expand the airport and its facilities, the portion of the facilities utilized by the licensee or contracting party and its customers and the volume and type of business conducted. Any party aggrieved by the rates, charges or fees may appeal from the action of the board to the circuit court of the county within which the board operates, within ninety (90) days from the date that the board finally publishes such rates, charges or fees and gives notice of same to the contracting party or licensee. The circuit court may hear evidence and determine whether or not the rates, charges or fees are, or are not, reasonable in amount. Appeal from the judgment of the circuit court may be prosecuted as any other civil appeal.

(3) The board shall likewise have power, from time to time, to fix rates, charges or fees by contract, or by publishing general rates, charges or fees for commercial vendors, concessionaires or other persons for the use or occupancy of terminal or other ground use facilities, under such terms or conditions as it may deem to be in the best interest of maintaining, operating or expanding necessary airport or air navigation facilities, and the public use thereof.

(4) The board may acquire by contract, lease, purchase, gift, condemnation or otherwise any real or personal property, or rights therein, necessary for establishing, operating or expanding airports and air navigation facilities. The board may erect, equip, operate and maintain on such property, buildings and equipment necessary, desirable or appropriate for airport or air navigation facilities. The board may dispose of any real or personal property, or rights therein, which, in the opinion of the board are no longer needed for operating or expanding the airport or air navigation facilities.

(5) The board or any other governmental unit may by resolution reciting that the property is needed for airport or air navigation purposes direct the condemnation of any property, including navigation or other easements. The procedure for condemnation shall conform to the procedures set out in the Eminent Domain Act of Kentucky.

(6) The board or any other governmental unit may from time to time make, adopt and enforce such rules, regulations and ordinances as it may find necessary, desirable or appropriate for carrying into effect the purposes of this chapter, including those relating to the operation and control of the airport, airport facilities or air navigation facilities owned or operated by such board or such other governmental unit. All rules, regulations and ordinances adopted pursuant to this section shall be published according to the provisions of KRS 424.130, and the board or other governmental unit adopting them shall keep a permanent record of such rules, regulations and ordinances available for public inspection, on the airport premises. Prosecution for a violation of any rule, regulation or ordinance adopted pursuant to this section shall be in the *district* [police court of any municipality or the county] court of any county within which the airport is located.

Section 172. KRS 184.050 is amended to read as follows:

(1) If no objections are filed on the day set for the initial hearing, the county court shall enter its order approving the petition.

(2) Any owner of land abutting upon the road proposed to be improved or maintained who has failed or refused to sign the petition seeking the formation of the road district may, on the day fixed for the hearing, file in the county court his answer to the petition setting forth his objections to the creation of the district, and the county judge shall thereupon fix a day when both the sponsors and the objectors may introduce testimony,

and shall at that time hear *and determine* the *issue* [case] on its merits. *Any person aggrieved by the determination of the county court may bring an original action in circuit court to contest such determination.* [The burden of proof shall be upon the objectors to show cause why the road district should not be created, and the case shall be tried as a suit in equity. The order of the county court shall be subject to appeal to the circuit court and thence to the Court of Appeals in accordance with the Rules of Civil Procedure.]

Section 173. KRS 184.060 is amended to read as follows:

In the event of a final judgment of the county court [, either with or without appeal to the Court of Appeals,] ordering the creation of the road district, the county court shall enter an order declaring said district organized in the name provided for in KRS 184.030, by which name it shall thereafter be known. The county judge shall thereupon appoint three (3) persons as members of the road district board of directors, whose duty it shall be to control and manage the affairs of the district. Each director shall be at least twenty-five (25) years of age, shall be an owner of land abutting upon the road to be improved and shall have lived on such land for a period of at least six (6) months prior to his appointment. The members of the first board of directors shall hold their offices, respectively, for two (2), three (3) and four (4) years from the date of their appointment, and thereafter each director shall be appointed for a term of four (4) years. Vacancies resulting from any cause other than expiration of a term of office shall be filled by the county judge and only for the unexpired term.

Section 174. KRS 186.510 is amended to read as follows:

The licensee shall have his license in his immediate possession at all times when driving a motor vehicle and shall display it upon demand to the circuit clerk or examiner, [a justice of the peace,] a peace officer, a member of the Kentucky state police, or a field deputy or inspector of the department of motor transportation or department of revenue. It shall be a defense to any charge under this section if the person so charged produces in court an operator's license, issued to him before his arrest and valid at the time of his arrest.

Section 175. KRS 186.550 is amended to read as follows:

(1) The clerk of any court [or the judge of any court which has no clerk, when acting as the clerk of the court,] having jurisdiction over offenses committed under motor vehicle laws shall report upon a form furnished by the department the conviction, pleas or forfeiture of bond arising under motor vehicle laws, to the department within fifteen (15) days.

(2) The court shall take up the motor vehicle operator's license certificate of a person convicted of any of the offenses for which mandatory revocation is provided by KRS 186.560 and have it immediately forwarded to the department with the report covering the conviction.

Section 176. KRS 187.400 is amended to read as follows:

(1) Whenever any person fails within sixty (60) days to satisfy any judgment, it shall be the duty of the clerk of the court [, or of the judge of a court which has no clerk,] in which any such judgment is rendered within this state, to forward to the department immediately after the expiration of said sixty (60) days, a certified copy of such judgment. If the defendant named in any certified copy of a judgment reported to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

(2) The clerk of the court [, or the judge of a court which has no clerk,] in which any conviction for violation of a motor vehicle law is rendered, or in which a person charged with violation of a motor vehicle law has pleaded guilty or forfeited bail, shall forward immediately to the department a certified copy of the judgment, order or record of other action of the court. This copy shall be prima facie evidence of the conviction, plea or other action stated.

Section 177. KRS 199.550 is amended to read as follows:

If for any reason whatsoever a petition for adoption of a minor child be dismissed or the judgment of adoption annulled, the following disposition shall be made of the child:

(1) If the child is, or was, prior to the filing of the petition, in the care, custody and control of the department, individual, institution or agency, then the child shall be returned to the custody of the department or such individual, institution or agency;

(2) Otherwise the court shall certify the case to the juvenile *session* [division] of the *district* [county] court of the county where the adoption proceeding is pending for appropriate action and disposition. Said *district* [county] court shall advise the department of the pendency of such action.

Section 178. KRS 200.160 is amended to read as follows:

The county children's bureau shall:

(1) Discover dependent, neglected, delinquent and defective children and obtain for them the benefits of the law;

(2) Administer the funds appropriated by the fiscal court for mothers' aid;

(3) Assist in enforcing the compulsory attendance law when requested by the county superintendent;

(4) Serve as probation or parole officers if appointed by the county *or the district court* judge;

(5) Make such investigations and perform such other service pertaining to children as the fiscal court or the county judge requests. In no event shall any member or agent of the county children's bureau enter any home, family, school or institution without the consent and permission of the head of the home or family, or of the persons in charge of the school or institution;

(6) Assist the department in the administrative performance of its duties with reference to children, and perform such services as may be requested by the department; and

(7) Make an annual report to the department and specific recommendation as to the needs of children in their respective counties.

Section 179. KRS 200.320 is amended to read as follows:

(1) Before any child is entitled to the benefits of KRS 200.310 to 200.330, he must be duly registered and accepted as a ward of the association, institution or corporation, at least ninety (90) days prior to application for the benefits of KRS 200.310 to 200.330, and the association, institution or corporation shall file in the office of the county clerk an affidavit sworn to by the executive officer of the association, institution or corporation, in support of the acceptance and registration of the child. The executive officer shall also file with the *circuit* [county] clerk a petition declaring that the child named in the application is a dependent child.

(2) The *circuit* [county] clerk shall thereafter refer the application and petition to the *district* [county] judge *sitting in juvenile session,* who shall make diligent investigation as to the eligibility of the child as a neglected or dependent child as defined by KRS 199.011. If it is determined that the child is a dependent child, he shall thereafter commit the child to the association, institution or corporation making the application, and the child shall be entitled to the benefits provided in KRS 200.310 to 200.330.

Section 180. KRS 201.100 is amended to read as follows:

(1) When a child comes under any of the provisions of KRS 201.090, the board may file a petition in the *juvenile session of district* [county] court setting forth the facts in regard to the child. The court shall thereupon issue a writ for the custody of the child, and the writ shall be served upon the parents or the person having actual custody or control of the child, or if the child is under no actual parental custody or control, then upon the child itself. If the writ is served upon the child, the board shall place the child in the temporary custody of the home, or of some private person or public agency until the final order of the court. Notice of the time of the hearing shall be served on the parents or the person having actual custody or control of the child, and such person shall have the right to call witnesses and be heard as to his rights, fitness and ability to care for and educate the child.

(2) If the facts set forth in the petition are found to be true and any of the conditions set forth in KRS 201.090 exist, the court shall order that the child be committed to the custody of the board. If the parents are able to maintain and support the child, the court shall require them to pay board, and may enforce such payment by attachment or other proceedings as in cases of contempt.

(3) An appeal may be taken from any orders, judgments or commitments made under the provisions of this section according to the procedures established in KRS 208.380 for appeals from the juvenile session of *district* [county] court.

Section 181. KRS 201.110 is amended to read as follows:

(1) All children received into the home's care by commitment of any court or officer having jurisdiction shall remain under the home's care for the period of their commitment, not to exceed their minority, unless sooner paroled or discharged.

(2) The board may discharge any child received under KRS 201.080 (1) at any time it deems it for the best interest of the child or the other children under the home's care, or for the best interests of the home. The discharge may be absolute, conditional, temporary or on parole, in the discretion of the board. *Before discharge notice must be given to the committing court and to such other parties as required in KRS Chapter 208.*

(3) The board shall discharge any child accepted for care under KRS 201.080 (2) on written request of the parent, or other party as specified in said section, making the application for care, within five (5) calendar days, unless during said period the board shall have filed a petition for commitment under KRS 201.100 or KRS chapter 208 and such commitment, or a temporary order of custody under KRS 208.020 (6) shall have been ordered by the court.

(4) The board may discharge any child accepted for care under KRS 201.080 (2) at any time it deems it for the best interest of the child or the other children under the home's care or for the best interests of the home. *Before discharge notice must be given to the committing court or board.*

Section 182. KRS 201.140 is amended to read as follows:

(1) The board may, with the approval of the county court, appoint, to serve at the pleasure of the board, one or more persons, of more than twenty-one (21) years of age, as parole officers. The parole officers shall apprehend or arrest, and take into custody wherever found in this state children who escape from the home, and return them to the home. Parole officers shall also, under the direction of the board, convey children of the home to any point in the state, and perform such other duties as the board requires of them. Such officers shall also have the general powers of peace officers.

(2) In making the apprehension or arrest of such escaped child, in any county other than that in which the home is located, the parole officer shall first secure a writ or process issued by the *district* judge of the county [court] wherein the home is located authorizing the parole officer to make such apprehension or arrest and to return the escaped child to the home, and this writ or process shall be the parole officer's authority in the premises.

Section 183. KRS 202A.040 is amended to read as follows:

(1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents an immediate danger or an immediate threat of danger to self or others if not immediately restrained shall detain that person without a warrant. The peace officer shall, as soon as practical, cause the person to be examined by a physician. If facilities are available and an authorized staff physician agrees, the person may be lodged in a hospital rather than a jail pending a hearing as provided in this section. If the physician after an examination of the individual certifies in writing that in his opinion the individual is a mentally ill person and presents an immediate danger or an immediate threat of danger to self or others as a result of mental illness and can reasonably benefit from treatment, and that hospitalization is the least restrictive alternative mode of treatment, then he shall be taken before a judge of a circuit *or district* [, county or police] court within forty-eight (48) hours of detention (excluding weekends and holidays). That court will hold a hearing to determine whether or not the individual should be involuntarily committed to a hospital for a period of seven (7) days.

(2) Respondent's presence at the hearing may be waived by the respondent.

(3) The respondent shall be represented at this hearing by an attorney either retained by respondent or provided by the Commonwealth. The respondent shall be afforded an opportunity to testify, to present and cross-examine witnesses for or against him. The court may in its discretion receive the testimony of any other persons. The hearing shall be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental health of the respondent. The hearing may be held by the court in chambers if feasible. If upon completion of the hearing the court finds that the respondent is (a) a mentally ill person, (b) because of his illness presents an immediate danger or an immediate threat of danger to self or others, (c) that the least restrictive alternative mode of treatment requires hospitalization, and (d) that treatment which can reasonably benefit the respondent is available in the hospital, then the court shall order the individual hospitalized in a hospital selected by the department for a period not to exceed seven (7) consecutive days.

(4) If at the end of seven (7) consecutive days a formal application has not been made for a further hospitalization under the provisions of this chapter, then the patient shall be discharged and the court issuing the hospitalization order notified of the date of release.

(5) When a formal application has been made for a further involuntary hospitalization under the provisions of this chapter, the patient shall not be retained in the hospital longer than ten (10) days from the date of application without a hearing and order of the appropriate court pursuant to the applicable provisions of this chapter unless the patient agrees to remain voluntarily.

Section 184. KRS 202A.050 is amended to read as follows:

(1) A friend, relative, spouse, guardian, or physician who has reasonable grounds to believe that an individual, who has not been detained in accordance with other provisions of this chapter, is mentally ill and presents an immediate danger or an immediate threat of danger to self or others may proceed against that person by filing a complaint or affidavit before the judge of a circuit *or district* [, county or police] court in the county where the allegedly mentally ill individual is located.

(2) The person signing the complaint must state under oath that he believes that the individual to be restrained is mentally ill and presents an immediate danger or an immediate threat of danger to self or others if not restrained. If, from the complaint, it appears to the judge that there is probable cause to believe that the person named is mentally ill and presents an immediate danger or an immediate threat of danger to self or others, he shall issue a warrant of arrest for the person named. After the warrant and arrest have been executed, the named individual shall be taken to a physician for examination, or if facilities are available and an authorized staff physician agrees, the person may be lodged in a hospital rather than a jail pending a hearing. The court issuing the warrant under this statute shall hold a hearing within forty-eight (48) hours (excluding weekends and holidays) to determine whether the individual should be involuntarily committed to a hospital for a period of seven (7) days.

(3) Respondent's presence at the hearing may be waived by the respondent.

(4) The respondent shall be represented at this hearing by an attorney either retained by respondent or provided by the Commonwealth. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses against him. The court may in its discretion receive the testimony of any other persons. The hearing shall be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental health of the respondent. The hearing may be held by the court in chambers if feasible. If upon the completion of the hearing the court finds that the respondent is (a) a mentally ill person, (b) because of this illness presents an immediate danger or an immediate threat of danger to self or others, (c) that the least restrictive alternative mode of treatment requires hospitalization, and (d) that treatment which can reasonably benefit the respondent is available in the hospital, then the court shall order the respondent hospitalized in a hospital selected by the department for a period not to exceed seven (7) consecutive days.

(5) If at the end of seven (7) consecutive days a formal application has not been made for a further hospitalization under the provisions of this chapter, then the patient shall be discharged and the court issuing the hospitalization order notified of the release date.

(6) When a formal application has been made for a further involuntary hospitalization under the provisions of this chapter, the patient shall not be retained in the hospital longer than ten (10) days from the date of application without a hearing and order of the appropriate court pursuant to the applicable provisions of this chapter, unless the patient agrees to remain voluntarily.

Section 185. KRS 202A.070 is amended to read as follows:

(1) Proceedings for involuntary hospitalization of an individual for sixty (60) consecutive days may be initiated by filing a petition as described in this chapter in the appropriate circuit court [or county court if the circuit court is not in session].

(2) Upon receipt of the petition the court shall give notice to the respondent, to his legal guardian, if any, and to his spouse, parent, or nearest known relative or friend concerning the allegations and contents of the petition and proposed hearing.

(3) As soon as practicable, after notice of the commencement of the proceedings is given to the respondent, the court shall appoint two (2) physicians to examine the respondent and certify to the court their findings as to whether the respondent is a mentally ill person who presents an immediate danger or an immediate threat of danger to self or others as a result of mental illness and who can reasonably benefit from treatment. Each physician shall also certify as to whether in his opinion hospitalization is the least restrictive alternative mode of treatment presently available. The examination shall be held at a hospital or other medical facility or any other suitable place not likely to have a harmful effect on the patient's health.

(4) The court may, after reviewing the allegations contained in the petition, issue a warrant for the arrest of the person named in the petition. Such person if arrested on such warrant shall be conveyed immediately to any hospital, medical facility or institution approved by the secretary and shall be there examined by two (2) physicians. The physicians shall certify to the court their findings as to whether the respondent is a mentally ill person who presents an immediate danger or an immediate threat of danger to self or others as a result of mental illness and who can reasonably benefit from treatment. Each physician shall also certify as to whether in his opinion hospitalization is the least restrictive alternative mode of treatment presently available.

(5) If after their examination the physicians certify that the respondent is a mentally ill person who presents an immediate danger or an immediate threat of danger to self or others as a result of mental illness and that he can reasonably benefit from treatment and that hospitalization is the least restrictive alternative mode of treatment presently available, then such person may be retained in the hospital pending a hearing and order of the appropriate court, or may be transported to an appropriate hospital for retention. In no case shall the patient be retained in a hospital longer than twenty-one (21) days from the date of the examination without a hearing and order of the appropriate court.

(6) If the criteria for involuntary hospitalization as set forth in subsections (3) and (4) of this section are not certified, the court may, without taking any further action, terminate the proceedings and dismiss the application. Otherwise, the court shall forthwith fix a date and notice of a hearing and render an order within twenty-one (21) days from the date of the examination of the respondent.

(7) The respondent shall be represented at such hearing by an attorney either retained by the respondent or provided by the Commonwealth. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses against him. The court may in its discretion receive the testimony of any other person. The hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental health of the respondent. The hearing may be held by the court in chambers, at a hospital, or other suitable place.

(8) Respondent's presence at the hearing may be waived by the respondent or respondent may be excused from the hearing upon a finding that respondent's presence would seriously disrupt the proceedings or that the respondent's presence at the hearing would be harmful to respondent.

(9) If upon completion of the hearing the court finds that the respondent is (a) a mentally ill person, (b) because of this illness presents an immediate danger or an immediate threat of danger to self or others, (c) that the least restrictive alternative mode of treatment requires hospitalization, and (d) that treatment which can reasonably benefit the respondent is available in the hospital, then the court shall order the individual hospitalized in a hospital selected by the department for a period not to exceed sixty (60) consecutive days.

(10) The hospitalization under this section shall be for a period of time not to exceed sixty (60) consecutive days from the date of the court order. Release shall be by writ of habeas corpus pursuant to the provisions of this section except that a staff physician may release the patient subject to the provisions of this chapter.

(11) When a formal application has been made for a further involuntary hospitalization under the provisions of this chapter, the patient shall not be retained in the hospital longer than ten (10) days from the date of application without a hearing and order of the appropriate court pursuant to the applicable provisions of this chapter, unless the patient agrees to remain voluntarily.

Section 186. KRS 202A.080 is amended to read as follows:

(1) If an individual has been hospitalized for a period of thirty (30) days under the provisions of this chapter, proceedings for involuntary hospitalization of an individual for three hundred sixty (360) consecutive days may be initiated by filing a petition in the appropriate circuit court [or county court if the circuit court is not in session].

(2) As soon as practicable, after notice of the commencement of the proceedings is given to respondent, the court shall appoint two (2) physicians to examine the respondent and certify to the court their findings as to whether the respondent is a mentally ill person who presents an immediate danger or an immediate threat of danger to self or others as a result of mental illness and who can reasonably benefit from treatment. Each physician shall also certify as to whether in his opinion hospitalization is the least restrictive alternative mode of treatment presently available. The examination shall be held at a hospital or other medical facility or any other suitable place not likely to have a harmful effect on the patient's health.

(3) If the criteria for involuntary hospitalization as set forth in subsection (2) of this section are not certified, the court may, without taking any further action, terminate the proceedings and dismiss the application. Otherwise, it shall forthwith fix a date and notice of a hearing and render an order within twenty-one (21) days from the date of the filing of the petition.

(4) The respondent shall be represented at such hearing by an attorney either retained by the respondent or provided by the Commonwealth. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses against him. The court may in its discretion receive the testimony of any other persons. The hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental health of the respondent. The court shall impanel a jury unless waived by the respondent. The hearing may be held by the court in chambers, at a hospital, or other suitable place.

(5) Respondent's presence at the hearing may be waived by the respondent or respondent may be excused from the hearing upon the finding that respondent's presence would seriously disrupt the proceedings or that the respondent's presence at the hearing would be harmful to respondent.

(6) If upon completion of the hearing the court finds that the respondent is (a) a mentally ill person, (b) because of this illness presents an immediate danger or an immediate threat of danger to self or others, (c) that the least restrictive alternative mode of treatment requires hospitalization, and (d) that treatment which can reasonably benefit the respondent is available in the hospital, then the court shall order the individual hospitalized in a hospital selected by the department, for a period not to exceed three hundred sixty (360) consecutive days.

(7) The hospitalization under this section shall be for a period of time not to exceed three hundred sixty (360) consecutive days from the date of the court order. Hospitalization for a period of time to exceed three hundred sixty (360) days requires a new hearing and court order under the provisions of this section. Release shall be by writ of habeas corpus pursuant to the provisions of this section except that an authorized staff physician may release the patient subject to the provisions of this chapter.

Section 187. KRS 202A.090 is amended to read as follows:

(1) The certificate referred to in this chapter shall be in the form prescribed by the department. The certificate shall state that the respondent has been examined by each of the examining physicians making the certificate within three (3) days prior to the date of the certificate. It shall state the facts and circumstances upon which the judgment of the examining physician is based and shall be sworn to before a notary or the clerk or judge of the court.

(2) When a person has been hospitalized under the provisions of this chapter requiring a petition and certification of two (2) physicians, said certification may be accepted by the circuit [or county] court as evidence in lieu of direct testimony from the physicians, whenever the presence of the two (2) physicians at the hearing is waived by the respondent.

(3) Where possible the persons selected by the court to perform examinations as described in this chapter and KRS Chapters 203 and 210 shall have made a special study of mental illness. The examiner shall be entitled to a reasonable fee for such examination and certification, to be paid by the county in which the petition is filed, upon a certified copy of an order of allowance made by the court holding the hearing.

Section 188. KRS 203.026 is amended to read as follows:

It shall be the duty of the clerk of the court, immediately upon the rendering of a judgment in an inquest proceeding adjudging a person to be incompetent, or a restoration of same, within not more than twenty-four (24) hours thereafter, to file an attested copy of said judgment in the office of the clerk of the county court of the county in which said judgment was rendered, which copy shall be filed and not recorded by the county clerk but indexed in the book in which notices of action and encumbrances are indexed. [For each filing the county clerk shall receive a fee of fifty cents (50¢) which shall be taxed as costs of the inquest by the clerk of the court filing same; Provided, however, should the person adjudged be without any estate, the county clerk shall receive, file and index said judgment without the payment of any fee.] Unless a copy of said judgment is filed in said county clerk's office, the judgment shall not constitute notice to any subsequent bona fide purchaser for value, mortgagee, or encumbrancer.

Section 189. KRS 203.032 is amended to read as follows:

Adjudication of incompetency as provided under this section shall give jurisdiction to the *district* [county] court for the appointment of a committee as provided in KRS 387.220.

Section 190. KRS 204.060 is amended to read as follows:

Every person going about begging, or staying in any street or other place to beg, shall, on the warrant of the *district* [county] judge, be sent to and kept at the poorhouse. If such person is able to work, he may be proceeded against under the vagrant laws.

Section 191. KRS 205.175 is amended to read as follows:

(1) All letters, reports, communications, and other matters, written or oral, to the bureau or any of its agents, representatives, or employes, or to any board or official functioning under KRS chapter 205 which have been written, sent or made in connection with the requirements and administration of the bureau shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court but no person testifying before the commissioner or his duly authorized representative shall be exempt from punishment for perjury.

(2) Information obtained shall not be published or be open for public inspection except that necessary information and records may be furnished to:

(a) Public employes in the performance of their duties in connection with the administration of the public assistance program;

(b) All law enforcement agencies including county attorneys, Commonwealth's attorneys, *district* [county] and circuit court judges and grand juries in discovering and prosecuting cases involving fraud;

(c) Duly elected members of the general assembly of the Commonwealth of Kentucky and the congress of the United States in connection with their duties as members of such legislative bodies, but such information shall be limited to cases of individual constituents of the legislator, who have requested information regarding their application or grant, as specified in the inquiry by such legislator; and

(d) Any interested party at a hearing before the commissioner or his duly authorized representative to the extent necessary for the proper presentation of his case; Provided, That any names or information obtained through access to such records shall not be used for any commercial or political purposes.

(3) Information regarding a public assistance applicant or recipient may also be released, in the discretion of the commissioner or those he may designate, to such individuals or agencies as meet the requirements of regulations promulgated by the commissioner and who are supplying or cooperating in securing services, employment or training for the applicant or recipient of public assistance.

Section 192. KRS 208.010 is amended to read as follows:

As used in KRS 208.010 to 208.540 and 208.990, unless the context otherwise requires:

(1) "Department" means the department for human resources;

(2) "Child" means any person who has not reached his twenty-first birthday;

(3) "Court" means the juvenile session of the *district* [county] court;

(4) "Child welfare worker" means any employe of the department for human resources designated as such by the secretary of the department for human resources or a social worker employed by a county or city who has been approved by the department for human resources to handle, under its supervision, services to children;

(5) "*Abused or* neglected [or dependent] child" has the same meaning as in subsection *(6)* [(4)] of KRS 199.011;

(6) *"Dependent child" has the same meaning as KRS 199.011(5)* ["Abandoned child" has the same meaning as in subsection (5) of KRS 199.011];

[(7) "Needy child" means one who is in want and deprived of any of the following: the necessities for living; the education required by law; or the supervisory, medical or other care necessary for his well-being;]

(7) [(8)] "Delinquency action" is an action brought in the interest of a child who is accused of committing a public offense, which if committed by an adult would be a crime;

(8) [(9)] "Status action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be terms criminal or delinquent, and such children shall not be considered delinquents;

(9) [(10)] "Dependency action" is any action brought on behalf of a neglected, dependent, [abandoned,] or *abused* [needy] child;

(10) [(11)] "Violation" means any offense, other than a traffic infraction, for which a sentence to a fine only can be imposed;

(11) [(12)] "Secure detention facility" is a physically secure setting which is entirely separated from sight and sound from all other portions of the jail containing adult prisoners;

(12) [(13)] "Emergency shelter" is a group home, private residence, or similar home-like facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child.

Section 193. KRS 208.020 is amended to read as follows:

(1) The juvenile session of the *district* [county] court of each county shall have exclusive jurisdiction in proceedings concerning any child living, or found within the county who has not reached his eighteenth birthday:

(a) Who has committed a public offense, except a moving motor vehicle offense, involving a child sixteen (16) years of age or older. The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders sixteen (16) years of age or older accused of moving motor vehicle offenses shall be treated as any adult offender; provided, however, that the term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony; or

(b) Who does not subject himself to the reasonable control of his parents, teacher, guardian or custodian, by reason of being wayward or habitually disobedient; or

(c) Who is an habitual truant from home or from school; or

(d) Who is found by the court to be dependent, neglected, [needy] or *abused* [abandoned].

(2) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(3) The court of each county shall have exclusive jurisdiction of persons charged with violations of KRS 530.060 and 530.070.

(4) The *juvenile session of district* court shall have exclusive jurisdiction of persons who and no person shall willfully and unnecessarily expose to the inclemency of the weather, or in any other manner willfully injure in health or limb any child actually or apparently under the age of sixteen (16) years.

(5) The *juvenile session of district* court shall have exclusive jurisdiction of persons who and no person shall for gain or reward employ or cause to be employed, or exhibit, use, or have in his custody for the purpose of exhibiting, or employing, any child actually or apparently under the age of sixteen (16) years, nor shall any person having the care, custody, or control of such child, in any way procure, or consent for gain or reward, to the employment or exhibition of such child, either:

(a) In begging or receiving alms, or in any mendicant occupation;

(b) If the child is a female, in peddling or in any wandering occupation;

(c) In any indecent or immoral occupation or practice;

(d) In the exhibition of any such child when insane, or idiotic; or

(e) In any practice or exhibition of unusual danger to life, limb, health or morals of the child.

(6) Any person, over whom the court has jurisdiction under subsections (3), (4) or (5) of this section, shall be entitled to a trial by jury.

(7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The juvenile *session of district* court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for its custody, pending the outcome of proceedings in circuit court to determine its permanent custody. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court, awarding custody of such child, all prior orders of the juvenile court in conflict therewith shall be deemed canceled.

(8) Actions brought under KRS 208.020(1)(a) shall be considered to be delinquency actions.

(9) Actions brought under KRS 208.020(1)(b) and (c) shall be considered to be status actions.

(10) Actions brought under KRS 208.020(1)(d) shall be considered to be dependency actions.

Section 194. KRS 208.030 is amended to read as follows:

[The county court in the trial and disposition of proceedings concerning children, excepting guardianship proceedings and inquests concerning sanity, shall be called the "juvenile court."] A special record book shall be kept by the court for all [such] cases, to be known as the "juvenile record," and the docket or calendar of such cases shall be called the "juvenile docket."

Section 195. KRS 208.280 is amended to read as follows:

If it appears that the parent of any child, or the estate of any child, who has been found to fall within the purview of this chapter and who has been left in his own home or in the home of a relative, placed on probation or placed in a foster home or boarding home, or in the care of a public or private institution or agency, or the department, is able to contribute to the support of the child, the court shall enter an order requiring the parent or estate to pay a reasonable sum from time to time for the support, maintenance or education of the child. The order shall direct that the money be paid to the *circuit* [county] clerk to be disbursed as ordered by the court or be paid to the person, institution, agency or department to which the child was committed or probated. On application and on such notice as the court may direct, the court may make alterations in the requirement for contribution. The court may require the parents to give security for payment of the sums due, and shall have the powers of a court of equity in enforcing its orders. The enforcement of a sentence imposed on a parent who fails to comply with the order of the court may be suspended at the discretion of the court, but the suspension may be revoked at the discretion of the court upon the failure of the parent to obey further orders of the court.

Section 196. KRS 208.320 is amended to read as follows:

(1) In counties containing a city of the first or second class, *urban-county government,* the county judge may appoint a chief probation officer of the juvenile court and such number of assistant probation officers, professional and clerical personnel as may be authorized by the fiscal court. Such officers shall receive reasonable salaries to be fixed by the fiscal court, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the county treasury. The officers shall serve at the pleasure of the county judge. The officers shall be peace officers, with all the powers of the sheriff in making arrests and carrying out the purposes of this chapter. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his or her probation, and detain such child for appropriate action by the court.

(2) In any county, the *district court* [county judge] may appoint or designate one or more discreet persons of good moral character to serve as volunteer probation officers of the juvenile court. Such officers shall serve during the pleasure of the judge and without compensation, except that the fiscal court may authorize the payment of compensation and reasonable expenses out of the county treasury of any such officers. Representatives of the department of child welfare may be appointed or designated as such volunteer probation officers, but without compensation from county funds.

(3) A child welfare worker may be, upon the recommendation of the commissioner of the department of child welfare, appointed by the governor to act as a peace officer in carrying out the purpose of this chapter and KRS chapter 199. If the department deems it necessary, it may appoint a child welfare worker to cooperate with the court.

Section 197. KRS 208.340 is amended to read as follows:

(1) No probation officer, nor employe of a probation office, shall, without the consent of the *district* [county] judge, *sitting in juvenile session,* divulge or communicate to any persons other than the court, a member of the advisory board of the court, or a representative of the department, any information obtained pursuant to the discharge of his duties, nor shall any record of the actions of the probation officer be made public except by leave of the *district* [county] judge: Provided, That nothing in this subsection shall prohibit the probation officer from divulging or communicating such information to the court, to his colleagues or superiors in his own department, to another probation officer having a direct interest in the record or social history of the child, or to a representative of any public or private social agency, institution, hospital or church having a direct interest in the record or social history of the child.

(2) All police records regarding children who have not reached their eighteenth birthday shall not be opened to scrutiny by the public. However, such police records shall be made available to the family, guardian or legal representative of the child involved. Such records shall also be made available to the court, probation officers, representatives of the department, or to a representative of any public or private social agency, institution, hospital or church having a direct interest in the record or social history of the child.

(3) This section shall relieve the probation officer or police officer from divulging such facts as a witness on the trial of any case, or the hearing of any proceedings, or the production of such records for use in such trial or proceedings; except that the facts may be divulged or the records produced where the case on trial is an appeal from the juvenile court's order, or a case transferred to circuit court from juvenile court pursuant to KRS 208.170, and the facts or records relate directly to the child's participation in the offense with which he is charged, if any.

Section 198. KRS 208.380 is amended to read as follows:

(1) An appeal to the circuit court may be taken as a matter of right from the juvenile session of the *district* [county] court from all orders and judgments whereby any infant, or other person, shall be restrained of his liberty, or placed in the custody of any institution, or fined or punished in any manner. The appeal shall be taken in the manner provided in the Rules of Criminal Procedure, and the circuit court shall, in the best interest of the child, hear such cases as soon as reasonably possible.

(2) A child's right to release during the pendency of an appeal shall be determined by a hearing held in circuit court to decide whether the circumstances surrounding the child are such as to endanger its safety or welfare or that of the community, or to indicate that the child cannot reasonably be expected to be present for the hearing of the appeal. Release hearings shall be held within three days after the filing of the appeal. The child shall have a right to counsel at such a hearing. The Commonwealth shall bear the burden of proof at such hearings and the decision shall be based upon a preponderance of the evidence. If the child is not released, the court shall order that a judgment of the juvenile court committing the child shall be effective pending appeal. Any party aggrieved by a denial of release pending appeal may appeal to the Court of Appeals.

(3) Any party aggrieved by the appellate decision of a circuit court made pursuant to subsection (1) may [by right] appeal to the Court of Appeals in the manner provided in the Rules of Criminal Procedure. The Court of Appeals shall, in the best interest of the child, hear such cases as soon as reasonably possible. A child's right to release pending this appeal shall be determined by the circuit court in the same manner described in subsetion (2) of this section.

(4) Any party aggrieved by a proceeding under KRS 208.020 (1) (d) may appeal from the juvenile court to the circuit court as a matter of right in the manner provided in Rule 72, Kentucky Rules of Civil Procedure. The circuit court may order that the child may be removed to a suitable place, pending the appeal, if it appears by affidavit or sworn testimony that the child would be in imminent danger if left with or returned to its parents, guardian, or other person party to the appeal.

Section 199. KRS 208.430 is amended to read as follows:

(1) Any child committed to the department may on the recommendation of the child welfare worker, at any time during the period of his commitment, be:

(a) Discharged from commitment, unless *after notice of discharge the court directs otherwise or* he was committed by a circuit court upon a felony conviction and was given a sentence the period of which will extend beyond the age of twenty-one. *Notice of discharge must be given to the committing court and to any other parties as may be required by law*;

(b) Placed in the home of his parents, or in a suitable foster home, family home or boarding home, upon such conditions as the department may prescribe and subject to visitation and supervision by a child welfare worker;

(c) Placed in one of the institutions operated by the department; except that no child committed to the department, under provision of KRS 208.020 (1) (b), (c), or (d) nor any child 10 years of age or under shall be placed in an institution operated by the department for children committed to the department as delinquents;

(d) Placed in a child-caring institution operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the department may prescribe;

(e) Disposed of as provided in KRS 208.460 or 208.470.

(2) Unless the child has been discharged from commitment, *or the court has specifically ordered otherwise,* any disposition of a child made under this section may at any time during the period of his commitment be changed and other disposition made in accordance with the provisions of this section.

Section 200. KRS 209.010 is amended to read as follows:

The purpose of this chapter is:

(1) To provide for the protection of adults who may be suffering from abuse, neglect, or exploitation, and to bring said cases under the purview of the circuit or *district* [county] court.

(2) To provide that any person who becomes aware of such cases shall report them to a representative of the bureau, thereby causing the protective services of the state to be brought to bear in an effort to protect the health and welfare of these adults in need of protective services and to prevent abuse, neglect, or exploitation.

Section 201. KRS 210.290 is amended to read as follows:

(1) The department for human resources may be appointed and act as executor, administrator, guardian, or committee, as provided in this section. In this capacity the department may transact business in the same manner as any individual and for this purpose may sue and be sued in any of the courts of the state. Bond shall not be required of the department.

(2) Whenever a person who has been adjudged incompetent and committed to the department for placement in a state mental hospital or institution for the mentally defective has no committee, the department, acting through its designated officer, may apply to the *district* [county] court of the county in which the adjudication was made for its appointment as committee for such incompetent person.

(3) Upon the death of a person for whom the department has been appointed committee, or upon the death of a person who has been committed to the department leaving an estate and having no relatives at the time residing within the state, the department may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The department may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The department shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs and other expenses incurred in the administration of estates. Claims of the department against the estates shall be considered in the same manner as any other claim.

(6) An officer designated by the secretary may act as legal counsel for any patient in a state mental hospital or institution against whom a suit of any nature has been filed, without being appointed as committee.

(7) Patients hospitalized pursuant to KRS Chapters 202A and 202B who are not adjudged mentally incompetent may authorize the department for human resources to handle personal funds received by them at the hospital in the same manner as prescribed in subsections (4) and (5) of this section.

Section 202. KRS 210.405 is amended to read as follows:

(1) Any regional community mental health board established pursuant to KRS 210.380 and recognized by the commissioner of the department of mental health may be appointed and act as executor, administrator, guardian or committee, as provided in this section. In this capacity, the board may transact business in the same manner as any individual and for this purpose may sue and be sued in any of the courts of the state. Bond shall not be required of the board.

(2) Whenever a person who has been adjudged incompetent and requires mental health services has no committee, the board, acting through its designated officer, may apply to the *district* [county] court of the county in which the adjudication was made for its appointment as committee for such incompetent person. The board may also apply to be substituted as committee for an incompetent whose committee is the department of mental health and who has been discharged or whose discharge is imminent from a department of mental health facility.

(3) Upon the death of a person for whom the board has been appointed committee leaving an estate and having no relatives at the time residing within the state, the board may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The board may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The board shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs and other expenses incurred in the administration of estates. Claims of the board against the estates shall be considered in the same manner as any other claim.

Section 203. KRS 210.995 is amended to read as follows:

(1) Any person who takes a lawfully involuntarily hospitalized patient or resident from any state hospital without the consent of authorized staff physician, or who entices, assists or encourages any such patient or resident to escape, shall be fined not more than five hundred dollars ($500). The *district* [county] court of the county in which the escape was effected shall have jurisdiction.

(2) Any person who entices, assists, or encourages any patient or resident in a state hospital to leave the hospital for any unlawful purposes shall be imprisoned for not more than six (6) months or fined not more than five hundred dollars ($500) or both. The *district* [county] court of the county in which the escape was effected shall have jurisdiction.

Section 204. KRS 213.340 is amended to read as follows:

(1) In all actions for divorce, absolute or limited or annulment of marriage, the plaintiff or his attorney or legal representative shall file concurrently with the complaint, such information as is requested on forms prescribed and furnished by the division of vital statistics.

(2) Each circuit court clerk shall, within forty-five (45) days after entry of a final judgment of divorce, absolute or limited or annulment of marriage, complete the form prescribed and furnished by the division of vital statistics and forward it to the division of vital statistics.

[(3) The circuit court clerk shall be paid a fee of fifty cents (50¢) for preparing and forwarding the required information to the division of vital statistics of the state department of health. The fee for each such report shall be added to the court costs allowed in such cases.]

Section 205. KRS 215.560 is amended to read as follows:

Whenever a health officer, physician, member of the family or other person has reasonable cause to suspect that a person has tuberculosis and that such person has failed to comply with the provisions of KRS 215.510 to 215.600 he may make an affidavit before any court [or judge thereof] reciting such facts and circumstances and the court [or judge thereof] shall thereafter direct that the person suspected of being afflicted with communicable tuberculosis submit to an examination either by a licensed practicing physician of his own choice at his own expense or by a physician appointed by the local health department at the expense of the county. The examination shall include both physical and laboratory examinations and shall be conducted according to such rules and regulations as may be promulgated by the state board of health and shall be reported upon forms furnished by said board.

Section 206. KRS 217.115 is amended to read as follows:

(1) Whenever a duly authorized agent of the department finds or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, or misbranded within the meaning of KRS 217.005 to 217.215, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or quarantined and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or quarantined article by sale or otherwise without such permission.

(2) When an article detained or quarantined under subsection (1) of this section has been found by such agent to be adulterated, or misbranded, he shall petition the judge of the *district* [police, county, or circuit] court in whose jurisdiction the article is detained or quarantined for an order for condemnation of such article; Provided That nothing in this section shall require that the department or its agent shall go to court if destruction of the quarantined article is accomplished by agreement made in writing with the owner of the property. When such agent has found that an article so detained or quarantined is not adulterated or misbranded, he shall remove the tag or other marking.

(3) If the court finds that a detained or quarantined article is adulterated or misbranded, such article shall, after entry of the order, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent; Provided That when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the order and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the department. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the department that the article is no longer in violation of KRS 217.005 to 217.215, and that the expenses of such supervision have been paid.

(4) Whenever the department or any of its authorized agents, after a state of emergency has been declared, shall find in any room, building, vehicle of transportation, or other structure, any food, drug, cosmetic, or device, which is unsound or which contains any filthy, decomposed, or putrid substance, or which may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the department or its authorized agent shall forthwith condemn or destroy the same or in other manner render the same unfit for human use.

Section 207. KRS 217.390 is amended to read as follows:

(1) When any duly authorized officer mentioned in KRS 217.380 finds any article of food that is adulterated, or any other article or substance that is detrimental to public health, the article shall be tagged or otherwise properly marked, giving notice that the product is suspected of being adulterated or detrimental to public health and has been quarantined, and warning all persons not to remove it until given permission by the officer or the courts.

(2) No person shall remove or otherwise dispose of such article in violation of this section.

(3) The officer shall then petition the judge of the *district* [police, county or circuit] court in the judicial circuit in which the article is found, for the condemnation and destruction of the article. The owner or defender of the article shall be given the right to a hearing, first before the officer, if desired, and before the court. The notice of a hearing before the officer shall state the length of time within which the hearing may be had.

(4) If the finding of the court is with the officer, the article shall be destroyed at the expense of the owner, or by the owner under the supervision of the officer. The costs shall be taxed against the owner or defender of the property, if he appears. If no one appears, the costs shall be collected against the owner or agent properly ascertained.

Section 208. KRS 217.700 is amended to read as follows:

(1) Whenever a duly authorized agent of the department finds or has probable cause to believe that any hazardous substance is misbranded, within the meaning of KRS 217.650 to 217.710, or is dangerous to public health he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, misbranded or dangerous to public health and has been detained or quarantined and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or quarantined article by sale or otherwise without such permission.

(2) When an article detained or quarantined under subsection (1) has been found by such agent to be misbranded or dangerous to public health, he shall petition the judge of the *district* [police, county, or circuit] court in whose jurisdiction the article is detained or quarantined for an order for condemnation of such article; Provided, however, That nothing in this section shall require that the department or its agent shall go to court if destruction of the quarantined article is accomplished by agreement made in writing with the owner of the property. When such agent has found that an article so detained or quarantined is not misbranded or dangerous to public health, he shall remove the tag or other marking.

(3) If the court finds that a detained or quarantined article is misbranded or dangerous to public health, such article shall, after entry of the order, be destroyed at the expense of the claimant thereof under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent; Provided, however, That if the quarantining of the article is due only to misbranding which can be corrected by proper labeling of the article, the court, after entry of the order and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling under the supervision of an agent of the department. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the department that the article is no longer in violation of KRS 217.650 to 217.710, and that the expenses of such supervision have been paid.

Section 209. KRS 218A.260 is amended to read as follows:

In any preliminary hearing, criminal trial, or other criminal proceeding involving an alleged violation of the controlled substance laws or regulations, evidence of information communicated to a peace officer by a confidential informant who is not a material witness to the guilt or innocence of the accused of the offense charged, shall be admissible on the issue of reasonable cause to make an arrest or search without requiring that the name or identity of the informant be disclosed if the judge [or magistrate] is satisfied, based upon evidence produced in open court out of the presence of the jury, that such information was received from a reliable informant and in his discretion does not require such disclosure.

Section 210. KRS 220.100 is amended to read as follows:

Any owner of real property in the proposed district who has not signed the original petition for the creation of the district and who wishes to object to the organization of the district shall, within sixty (60) days after the giving of notice by the commissioner, file his petition in the circuit court of the county in which the larger part of the proposed district is located, naming the commissioner defendant and setting out in the petition his objections to the organization of the district. The commissioner shall be represented in the circuit court by the county attorney and in the Court of Appeals by the attorney general, and he also may require his defense to be made by the petitioners or some of them. The issues may be made up and the case may be docketed for hearing as in an action for a declaration of rights. [An appeal to the Court of Appeals may be taken in the manner provided in the Rules of Civil Procedure, but such appeals shall be docketed within sixty (60) days from the entry of judgment; unless the time be extended by a lower court, but in no event beyond one hundred and twenty (120) days from the entry of judgment.] The burden of proof shall be upon the plaintiff to show cause why the district should not be organized. If the court renders judgment against the commissioner, judgment shall point out the changes required for the establishment of a district, which, if met by the commissioner, shall authorize the creation of the district. If the changes are not met by the commissioner, the proposed district shall not be organized unless new proceedings are instituted for the creation of a district, but such new proceedings shall not be instituted for a period of six (6) months after the date of judgment. If the court gives judgment against the plaintiff, the commissioner shall organize the district. An appeal [taken as authorized in this section] shall suspend the judgment until the case has been passed upon by the Court of Appeals and final judgment rendered. Either the plaintiff or the commissioner may appeal from the judgment of the circuit court to the Court of Appeals, but the commissioner shall not be required to make any appeal bond. Except as otherwise provided in this section, the pleading and practice shall be the same as in other suits in equity.

Section 211. KRS 220.537 is amended to read as follows:

Any owner of real property in the territory proposed to be annexed who wishes to object to the annexation of the territory to the district shall, within sixty (60) days after the giving of notice by the commissioner, file his petition in the circuit court of the county in which the larger part of the territory proposed to be annexed is located, naming the commissioner defendant and setting out in his petition his objections to the annexation of the territory. The commissioner shall be represented in the circuit court by the county attorney and in the Court of Appeals by the attorney general, and he also may require his defense to be made by the district. The issues may be made up and the case may be docketed for hearing as in an action for a declaration of rights. [An appeal to the Court of Appeals may be taken in the manner provided in the Rules of Civil Procedure, but such appeals shall be docketed within sixty (60) days from the entry of judgment, unless the time be extended by the lower court, but in no event beyond one hundred and twenty (120) days from the entry of judgment.] The burden of proof shall be upon the plaintiff to show cause why the territory, or any portion of it, should not be annexed to the district. If the court renders judgment against the commissioner, the judgment shall point out the changes required for annexation of the territory, which, if met by the commissioner, shall authorize annexation of the territory. If the proposed changes are not met by the commissioner, the territory shall not be annexed unless new proceedings are instituted in the manner prescribed by KRS 220.535 and 220.536, but such new proceedings shall not be instituted for a period of six (6) months after the date of judgment. If the court gives judgment against the plaintiff, the board of directors may annex the territory. An appeal [taken as authorized in this section] shall suspend the judgment until the case has been passed upon by the Court of Appeals and final judgment rendered. Either the plaintiff or the commissioner may appeal from the judgment of the circuit court to the Court of Appeals, but the commissioner shall not be required to make any appeal bond. Except as otherwise provided in this section, the pleading and practice shall be the same as in other suits in equity.

Section 212. KRS 229.190 is amended to read as follows:

The chairman shall have authority to issue subpoenas for the attendance of witnesses and the production of documents before the commission, [to the same effect as if they were issued in an action in the circuit court,] and it may, by any member, administer oaths and affirmations and it may examine witnesses in all matters pertaining to the administration of the affairs of the commission; and *in case of* disobedience of such subpoenas, *any circuit judge, on application of the commission or of a commissioner, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court* [and false swearing before such commission shall be attended with the same consequences and be subject to the same penalties as if such disobedience or false swearing occurred in an action in the circuit court].

Section 213. KRS 231.090 is amended to read as follows:

(1) From the *decision* [judgment] of the county court refusing to grant the permit, the applicant may appeal to the circuit court, where the appeal shall be tried as an action in equity, and the evidence shall be heard in open court.

(2) From the *decision* [judgment] of the county court granting a permit any citizen of the county may appeal to the circuit court and the appeal in the circuit court shall be tried as in the case of an appeal from a judgment denying the permit.

(3) Before any appeal is perfected, the party appealing shall file a copy of the *decision* [judgment] of the county court with the circuit clerk and shall execute a bond guaranteeing the payment of the cost of the appeal. The cost of the appeal shall be adjudged against the person losing the appeal.

(4) The county attorney shall resist any appeal filed by an applicant and shall represent any citizen who appeals from the *decision* [judgment] of the county court granting a permit.

[(5) The judgment of the circuit court granting or refusing to grant a permit shall be final.]

Section 214. KRS 233.050 is amended to read as follows:

Upon the presentation of a petition alleging that a house of prostitution exists, the court [or a judge in vacation,] may grant a temporary injunction without bond, if the existence of the house of prostitution is made to appear to the satisfaction of the court [or judge] by evidence in the form of affidavit, depositions, oral testimony or otherwise, as the relator may elect. Three (3) days' written notice of the application shall be given the defendant before the hearing. When a temporary injunction has been granted it shall be binding on the defendant throughout the state, and any violation of its provisions shall be a contempt.

Section 215. KRS 233.080 is amended to read as follows:

If the complaint is filed by a citizen, it shall be dismissed only upon a sworn statement by the relator and his attorney, setting forth the reasons why the action should be dismissed. Dismissal shall be approved by the Commonwealth's or county attorney in writing or in open court. If the court is of the opinion that the action ought not to be dismissed, it may direct the Commonwealth's or county attorney to prosecute the action to judgment. If an action is continued more than one (1) *month* [term of court], any citizen may be substituted for the relator and prosecute the action to judgment. If the action is brought by a citizen, and the court finds there was no reasonable ground for the action, the costs may be taxed to that citizen.

Section 216. KRS 233.120 is amended to read as follows:

If the owner, agent or lessee of premises against which an injunction has been issued, appears in court, pays all costs of the proceeding and files a bond, with surety approved by the clerk and qualified as required by KRS 454.185, in the full value of the premises as ascertained by the court, [or by the judge in vacation,] conditioned that he will immediately abate the house of prostitution and prevent it from being established or kept within a period of one (1) year, the court [, or the judge in vacation,] may, if satisfied of his good faith, order the premises released to the owner, agent or lessee and the order of abatement canceled so far as it relates to the premises. If the bond is given and costs are paid before judgment and the order of abatement, the action shall be terminated as to those premises. The release of the premises under this section shall not release it from any other judgment, lien or liability, to which it may be subject.

Section 217. KRS 233.150 is amended to read as follows:

(1) In case of a violation of any injunction granted under this chapter, the court [, or a judge in vacation,] may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court an affidavit, setting out the alleged facts constituting the violation, upon which the court [or judge] shall cause an order of arrest to issue. The trial may be had upon affidavit, but either party may at any stage of the proceedings demand the production and oral examination of the witnesses.

(2) If any person enters or uses premises directed to be closed as provided in KRS 233.100, he shall be proceeded against as provided in subsection (1) of this section.

Section 218. KRS 235.315 is amended to read as follows:

If the violation of any section of this chapter or regulation promulgated thereunder is committed in the presence of the officer, the officer may, in lieu of making a physical arrest, issue a citation requiring the defendant to appear before *the district court* [a county judge] of the county in which the offense occurred at a future time to be stated in the citation. In no event shall the citation state a time of appearance in excess of ten (10) days from the date the citation was issued.

Section 219. KRS 242.070 is amended to read as follows:

Not more than twenty (20) days prior to an election any group of citizens that in good faith favors or opposes the proposition to be submitted may file with the chairman of the county board of election commissioners a petition asking that it be recognized as the committee entitled to nominate election officers and to certify challengers, witnesses to the *counting* [county] of the ballots and certification of the results, and guards to assist in guarding the ballot boxes during the period which the group desires. If more than one group claims the right to nominate election officers and certify challengers, witnesses and guards, the county board of election commissioners shall promptly decide and publicly announce which committee is entitled to nominate officers and certify challengers, witnesses and guards. That decision shall not be final, but any aggrieved party may *petition* [appeal] to the county court, and upon hearing the county judge shall determine which group shall be recognized.

Section 220. KRS 242.350 is amended to read as follows:

(1) If it is made to appear to the satisfaction of the court [, or judge in vacation,] that a nuisance described by KRS 242.310 exists, a temporary injunction shall forthwith issue, restraining the defendant from conducting or permitting the continuance of the nuisance until the conclusion of the trial. If a temporary injunction is prayed for, the court [or judge] may issue an order restraining all persons from interfering in any way with the alcoholic beverages, fixtures or other things used in connection with the nuisance.

(2) It shall not be necessary for the court to find the property involved is being unlawfully used as described in KRS 242.310 at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that no alcoholic beverages shall be sold, bartered or stored on the premises or vehicle, or any part thereof. Upon judgment of the court ordering the nuisance abated, the court may order that the premises or vehicle shall not be occupied or used for six (6) months.

(3) The court may permit the premises or vehicle to be used if the owner, lessee, tenant or occupant gives bond with sufficient surety, to be approved by the court making the order, in the sum of not less than five hundred dollars (500) nor more than one thousand dollars ($1,000), payable to the state and conditioned that alcoholic beverages will not thereafter be sold, bartered, kept or otherwise disposed of on or in the premises or vehicle, and that he will pay all fines, costs and damages that may be assessed for any violation of this chapter on or in the premises or vehicle.

Section 221. KRS 242.370 is amended to read as follows:

(1) When an officer or any reputable citizen files an affidavit with any circuit *or district* judge, [county judge, police judge or justice of the peace,] describing premises or a vehicle, where alcoholic beverages are sold, disposed of or possessed in violation of this chapter, the judge [or justice] shall by his warrant cause the premises or vehicle to be searched for the detection of any alcoholic beverages which are possessed, or kept for disposition, in violation of this chapter.

(2) Any officer receiving such a warrant shall immediately execute it on the day it is received.

(3) If admission is not given on demand, the officers enforcing the warrant shall force an entrance into the premises or vehicle. If the officer finds that alcoholic beverages are being illegally sold, disposed of or possessed, he shall seize the alcoholic beverages, arrest the keeper or person in charge of the premises, vehicle or alcoholic beverages and carry the person arrested and the alcoholic beverages before the judge that has issued the warrant.

(4) No search warrant as provided for in this section shall be quashed if it and the affidavit on which it is based are sufficient on the face. If the search warrant is quashed no property taken by virtue of it shall be ordered returned unless the person from whose possession the property was taken both alleges and proves that he was in lawful possession of the property.

Section 222. KRS 242.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter, for which no other penalty is herein provided, shall, for the first offense, be fined not less than twenty (20) nor more than one hundred dollars ($100) and, if a natural person, imprisoned in the county jail for not less than thirty (30) nor more than sixty (60) days; for the second offense he shall be fined not less than forty (40) nor more than two hundred dollars ($200) and, if a natural person, imprisoned in the county jail for not less than sixty (60) nor more than one hundred and twenty (120) days; for the third and each subsequent offense he shall, if a natural person, be confined in the penitentiary for not less than one (1) nor more than two (2) years, and if a corporation, be fined not less than one thousand (1,000) nor more than two thousand dollars ($2,000).

(2) Any officer who violates subsection (2) of KRS 242.370 shall be fined not less than one hundred (100) nor more than five hundred dollars ($500).

[(3) Quarterly courts, justices of the peace and police courts shall have concurrent jurisdiction with the circuit court in the trial of all offenses committed under this chapter, where the penalty does not exceed a fine of one hundred dollars ($100) and imprisonment in the county jail for not exceeding sixty (60) days.]

Section 223. KRS 258.235 is amended to read as follows:

(1) Any person may kill any dog which he sees in the act of pursuing, worrying, or wounding any livestock, or wounding or killing poultry, or attacking human beings, whether or not such dog bears the license tag required by the provisions of this chapter. There shall be no liability on such person in damages or otherwise for such killing.

(2) Any unlicensed dog, not accompanied by its owner or keeper, that enters any field or inclosure where livestock or poultry are confined shall constitute a private nuisance and the owner or tenant of such field, or his agent or servant, may kill such dog while it is in the field or inclosure, without liability or responsibility of any nature for such killing.

(3) Subsection (2) of this section shall not apply to licensed dogs, when accompanied by their owner or handler, unless caught in the act of worrying, wounding, or killing any livestock, or wounding or killing poultry, or attacking human beings.

(4) Any person who has been attacked by a dog, or any one for such person, may make a complaint before *the district* [a justice of the peace, or judge of any police or quarterly] court, charging the owner or keeper of such dog with harboring a vicious dog. A copy of such complaint shall be served upon the person so charged in the same manner and subject to the laws regulating the service of summons in civil actions directing him to appear for a hearing of such complaint at a time fixed therein. If such person fails to appear at the time fixed, or if upon a hearing of the parties and their witnesses, the court finds the person so charged is the owner or keeper of the dog in question, and that the dog has viciously and without cause, attacked a human being when off the premises of the owner or keeper, *the court* [such official] shall order the said owner or keeper to henceforth keep such dog securely confined.

(5) For his services in such proceedings, [the judge or justice of the peace and] the peace officer shall be entitled to the same fees to which *he is* [they are] entitled for performing similar services in civil cases. In all proceedings under this section, such court shall place the costs upon either party as he may determine.

(6) It shall be unlawful for the owner or keeper of any vicious dog after receiving such order, to permit such dog to run at large, or to appear on the public highways unless in leash. Any such dog found running at large may be killed by any peace officer without liability for damages for such killings.

SECTION 224. A NEW SECTION OF KRS CHAPTER 268 IS CREATED TO READ AS FOLLOWS:

Whenever any property is going to be taken or damaged by the board pursuant to this chapter, the board may effect an agreement with the owner for compensation therefor. If no agreement is reached, the board may condemn the property pursuant to the Eminent Domain Act of Kentucky.

Section 225. KRS 268.020 is amended to read as follows:

[(1)] Any county [or circuit court] may establish, organize, and provide for the operation and maintenance of drainage, levee and reclamation districts. [The original jurisdiction conferred upon the county court for this purpose shall be concurrent with that conferred upon the circuit court for the same purpose. The circuit court shall also have appellate jurisdiction with reference to any matter in this chapter from any final order or judgment of the county court. In matters relating to procedure this chapter is intended to be exclusive of all other remedies. Any judgment from which no appeal is prosecuted shall be executed by the court in which it is rendered. Proceedings under this chapter shall have precedence on the docket of county and circuit courts over all other civil cases except election cases and proceedings which have been given precedence previously by other laws.

(2) Appeals to the circuit court shall be taken in accordance with the Rules of Civil Procedure. Trials in the circuit court shall be de novo, but no issue which was not raised by pleadings or exceptions in the county court shall be considered on the trial in the circuit court. All orders made in the county court may be read in evidence in the circuit court without being copied.

(3) An appeal may be taken to the Court of Appeals from any final order or judgment of any circuit court concerning any matter in this chapter, in accordance with the Rules of Civil Procedure.]

Section 226. KRS 268.030 is amended to read as follows:

(1) Proceedings to establish, organize and maintain any district shall [be ex parte proceedings. They shall] be commenced by at least twenty-five per cent (25%) of the landowners or the owners of at least twenty-five per cent (25%) of the land in the proposed district, who shall file a petition with the clerk of the *fiscal* [county] court [or the clerk of the circuit court] of the county where the property proposed to be organized into a district is situated. If the property is located in more than one county the petition shall be filed in any county in which some part of the property is situated.

(2) [The circuit court and the county court of] Any county containing any part of the land described in the petition shall have jurisdiction of the proceedings, regardless of county lines. The *fiscal* court in which a proceeding is commenced first shall have jurisdiction to the exclusion of any other court, whether or not all the land in the proposed district is located in such county.

Section 227. KRS 268.040 is amended to read as follows:

(1) The petition shall describe generally the property to be improved, the conditions existing and any advantages that will result from the proposed improvement: First, to the public benefit or utility; second, to the public health of the community where the improvement is to be located and adjacent property; third, to the

general convenience and welfare which it will promote; and, fourth, to the land that will be improved, or any part of any city that will be protected from overflow, afforded outlets for sewage, or the sanitation of which will be benefited. The petition may include any other facts that tend to show the sanitary, agricultural or commercial expediency for making the proposed improvement. It shall include the names of all persons owning property that will be affected by the improvement. It shall state what estate each owner has in such property, the state and county of his residence, whether such owner is an infant or adult, and whether he is laboring under any disability except coverture. The post office address of each owner of property shall also be given if known. The omission to state any of these facts shall not render the petition defective, [or prevent the court from having jurisdiction of the proceedings] if the petition sufficiently describes the territory sought to be improved. But, any petition failing to allege that the proposed improvement will result in a public benefit or utility, will promote the public health or will conduce to the general welfare of the community in which the district is located shall fail. The petition need not describe the character of improvement necessary to be made, or attempt to locate what is to be improved, but if such facts are set out in the petition, they shall not make it defective or have any controlling influence in the making of the improvement. In describing the territory it will be sufficient if the petition contains a description by metes and bounds, but the territory may be described otherwise. The petition may be changed at any time before the district is completely organized. It shall be signed by at least one (1) owner of property in the proposed district that will be affected by the improvement. Three (3) copies of the petition shall be filed with the clerk of the court at the commencement of the proceeding.

(2) At the time of filing the petition the petitioner shall execute a bond in the sum of two thousand dollars ($2,000), with good and sufficient surety, to be approved by the clerk of the *fiscal* court where the petition is filed. This bond shall be payable to the Commonwealth, for the use and benefit of any party in interest, conditioned for the payment of all costs and expenses incurred, in case the petition is not granted. If at any time it appears to the *fiscal* court that the bond is insufficient to secure the payment of the costs and expenses, additional bond may be required. If the petitioner fails to execute additional bond within thirty (30) days, the *fiscal* court may then dismiss the proceedings at the cost of the petitioner.

Section 228. KRS 268.060 is amended to read as follows:

(1) [On the first day of the next succeeding term of the court after the petition is filed,] The *fiscal* court shall appoint a board of viewers, to view the property sought to be improved.

(2) The board of viewers shall be composed of three (3) members, two (2) of whom shall be resident freeholders of the county where some of the property described in the petition is situated, above the age of twenty-one (21) years, and not owners of any property in the proposed district, nor of kin of the second degree of consanguinity to any one (1) of the petitioners nor to any person shown in the petition to be the owner of any property in the proposed district. The other member of the board of viewers shall be a competent civil and drainage engineer, who need not be a resident of this state, provided he does not own any property in the district and is not related in like degree to any one of the petitioners or other person shown by the petition to be the owner of property in the proposed district.

(3) Before entering upon their duties, the viewers shall be sworn to faithfully and impartially perform their duties to the best of their ability. This oath shall be in writing, subscribed by each viewer, and filed as a part of the record.

Section 229. KRS 268.080 is amended to read as follows:

(1) [If the report of the viewers recommends the establishment and organization of the proposed district,] The clerk of the *fiscal* court shall forthwith cause notice *of the report* [thereof] to be mailed to each owner named in the report whose property is shown to be affected by the proposed improvement.

(2) The notice shall be in substance as follows: "Commonwealth of Kentucky:" (Here insert names of all owners of property named in the report) .... You are hereby notified *of a hearing to be held* [to appear] in the *fiscal* [....] court of the County of ...., Kentucky, *on the ——day of ——, 19——, to consider* [within thirty (30) days from this date and show cause why the prayer of the petition of .... et al., herein filed, shall not be granted, and why] the report of the board of viewers [filed herein and now] on file in the office of the clerk of the court, [should not be confirmed,] which report (recommends) *(does not recommend)* the establishment and organization of a (drainage), (levee), (reclamation) district, embracing the following territory .... (here describe the territory by boundaries as described in the report of the board of viewers). *In the event the district is established,* [and to show cause why] the property owned by you located in the proposed district shall [not] be assessed for the purpose of establishing and organizing that district and constructing and maintaining the proposed improvement. [, and why] So much of the property owned by you *and on* which *it* may be necessary to construct and maintain this improvement *may* [shall not] be taken or damaged for such purpose *upon adequate compensation being made therefor.* Upon your failure to appear *or* [and] file *written* objections [or exceptions within thirty (30) days from this date], it will be taken for granted [and confessed] by the *fiscal* court and all others that you have no objections to the establishment and organization of the

district or the construction and mintenance of the proposed improvement in the (drainage), (levee), (reclamation) district. The proposed improvement is described as follows: (here give a general description of the proposed improvement according to the recommendations contained in the report).

"Witness my hand as clerk of the .... court on this the .... day of ...., 19...

.... Clerk

By .... D.C."

(3) The clerk of the *fiscal* court in which the *petition* [proceeding] is pending shall cause a copy of the notice to be placed in an envelope plainly addressed to each owner or city, at the post office address as shown in the viewers' report, with the proper postage on the envelope. The clerk shall mail it [in the post office at the county seat of the county in which the proceeding is pending] within five (5) days after the report of the viewers is filed in his office. The clerk shall also publish this notice pursuant to KRS chapter 424 after the report is filed in his office. He shall also post a copy of the notice at ten (10) public and conspicuous places within the territory. If the district is partly located in two (2) or more counties he shall post a copy of the notice in at least five (5) different public and conspicuous places within that part of the district in each county where any part of the district is located, and in addition post one (1) copy at the courthouse door at the county seat of each county in which any part of the district is located. The notices herein provided for shall be posted within ten (10) days after the viewers' report is filed in the clerk's office.

Section 230. KRS 268.090 is amended to read as follows:

(1) After the clerk of the *fiscal* court has filed the report of the viewers, and given notice as provided for, he shall prepare and attach to each copy of the viewers' report his written and signed certificate showing how he has performed his duties.

(2) The certificate shall be substantially as follows: "Commonwealth of Kentucky:
County of ....

In the *Fiscal* [....] Court

IN THE MATTER OF .... DISTRICT, WHEREIN .... AND OTHERS ARE PETITIONERS [EX PARTE], LOCATED IN .... COUNTY, KENTUCKY

"I, ..., clerk of the ...., do now hereby certify that on the .... day of ...., 19.., the board of viewers appointed by the court filed in my office their report with two copies thereof, each of which was on that day indorsed and filed by me [, which report recommended the establishment of this district]; that I, within five days, and on the .... day of ...., 19.., prepared a notice as required by law, and plainly addressed one copy thereof to each of the following named persons or cities (here insert names) and signed that notice as clerk of the court, and placed a copy of the notice in an envelope plainly addressed to each person named in the report and at the post office address of each person given in the report of the viewers, and, on the same day after placing the proper postage on each envelope deposited it in the post office at ...., in the County of ...., Kentucky [, being the county seat of the county wherein this proceeding is pending]. I have posted a copy of this notice at ten public and conspicuous places within the territory proposed to be embraced in the district. I have also posted five copies at public and conspicuous places in that part of the territory embraced in the proposed district, located in each of the following counties: .... and have also posted a copy at the courthouse door in each of the following named counties wherein parts of the district are located: ...., ..., ... I have published the notice once each week for three consecutive weeks next after the report was filed in my office, in the following newspapers: ...., which notice was published in these newspapers on the following days and dates: ..... A copy of the notice is attached hereto and made a part hereof. One copy of each newspaper in which the notice was published is also attached hereto and made a part hereof.

"I have executed this certificate in triplicate form, and attached a copy to each of the three copies of the viewers' report.

"Given under my hand as clerk of the .... court on this .... day of ...., 19...

.... Clerk."

Section 231. KRS 268.130 is amended to read as follows:

(1) The *fiscal* court shall set the report of the viewers for a hearing *not less than thirty (30) days after the report is filed* [and trial upon exceptions and objections thereto]. The court may continue the proceedings from term to term and cause the clerk to give the proper notice if he has failed to do so, so that every owner shall be before the court. Any owner may file his objections [and exceptions] showing reasons why the district should *or should* not be established or organized, *or appear in person, or both.* [but they shall be filed within thirty (30) days after the date of notice by the clerk. They shall be limited to a denial of facts alleged in the petition or stated in the report of the viewers. The report of the viewers shall be taken as prima facie correct.]

(2) If the court finds that the property described in the report should not be formed into a district as prayed for in the petition, the petition shall be dismissed and the costs charged to the petitioners. No petitioner may dismiss the petition after the viewers are appointed, without the written consent of the persons owning a majority in acreage of land described in the petition. If the court finds that the report of the viewers does not correctly describe the property involved in the proposed district, the proceedings may be again referred to the viewers, with directions to report at a date certain to be then fixed by the court, to which time the proceedings shall be continued. No additional notice need be given, unless additional property is embraced in the amended report, in which case the hearing shall be again fixed by the court and additional notice given and published as before, except this notice shall relate only to the additional owners in the amended report. The hearing shall then be had, as if the property added had been embraced in the report originally.

(3) If the *fiscal* court [overrules all objections and] finds that any part of the territory should be organized into a district as prayed for in the petition, or as reported by the viewers, the court shall establish the district by entering an order [for judgment] substantially as follows:

"Commonwealth of Kentucky. In the *fiscal* [....] court, ... County, ... term, 19...

"In the matter of the petition of .... et al., for the establishment and organization of a (drainage), (levee), (reclamation) district, in the County or Counties of .....

"Now on this, the .... day of ...., 19.., comes on for hearing [and trial the exceptions and objections to] the report of the board of viewers herein, by which proceeding it is sought to establish a (drainage), (levee), (reclamation) district under an act relating to drainage, and it appearing to the court that the petition and the report of the board of viewers are each in compliance with the law, and it further appearing to the court from an inspection of the certificate of the clerk that notice has been given as required by law, and that all owners are before the court and that the court now has jurisdiction over [every person named in the report and over] all property in the following territory: (here insert description of territory comprising district), and it appearing to the court that the following persons have heretofore filed objections to the viewers' report: (here insert names of all persons who have filed objections). The court having heard the [evidence and] arguments [of counsel] and being sufficiently advised, it is now *ordered* [adjudged that such objections and exceptions be overruled, and] that the territory described herein be [declared] established and organized into a (drainage), (levee), (reclamation) district, and a body corporate, under the name of (name of district). This proceeding is now ordered into the hands of the board of drainage commissioners of .... district, to be by them organized into a (drainage), (levee), (reclamation) district. The clerk of this court is hereby ordered to issue and deliver to the board of drainage commissioners a certified copy of this *order* [judgment]. This proceeding is now continued for any necessary further proceedings.

.... *County* Judge
.... *Fiscal* Court."

Section 232. KRS 268.140 is amended to read as follows:

(1) When the order [on the judgment] establishing the district is entered the district shall be considered fully established. [Costs shall follow the judgment of the court as in civil actions.]

(2) All owners whose property is embraced in the report of the viewers and appears in the notice posted by the clerk shall be bound by the *order* [judgment] of the *fiscal* court, whether they filed objections or not. They shall not thereafter be heard on any question raised or that could have been raised by any party in interest up to that time, subject, however, to the right of appeal on the part of any person feeling himself aggrieved.

(3) Officers performing services in proceedings under the provisions of this chapter shall, except where otherwise provided, receive the same fees as are allowed by law for like services. The board shall pay the fees, per diem and necessary expenses of all [court and] county officers who may by virtue of this chapter render services to the district.

(4) The clerk of any *fiscal* court in which proceedings provided for in this chapter are held shall perform the duties required of him by this chapter without delay.

Section 233. KRS 268.150 is amended to read as follows:

As soon as the *order* [judgment] has been entered establishing a district, the *fiscal* court shall issue an order referring the district to the board of drainage commissioners elected by the landholders of the district, and at the same time enter an order continuing the proceedings until some day certain in that term or generally to the next term of the court. All persons named in the clerk's notice and before the court shall take notice of all continuances of the proceedings, without further notice. If no order is entered continuing the proceedings, they will be by law continued from time to time until the improvements are completed and paid for, as if the order of continuance had been entered.

Section 234. KRS 268.210 is amended to read as follows:

(1) Attorneys selected by the petitioners to prepare and file ex parte petitions for the establishment of any district shall faithfully perform the duties of attorney in such proceedings, aid in the preparation of all reports of the viewers, and do any other work necessary until judgment is rendered on the exceptions to the viewers' preliminary report, establishing or refusing to establish the district, at which time their duties shall cease. If the district is established the court organizing it shall allow the attorney representing the petitioners a reasonable fee for the service actually rendered, to be taxed as a part of the cost of the proceeding, and paid by the board out of the funds belonging to the district when funds come into their hands.

(2) The compensation of the engineer who is a member of the board of viewers shall be fixed by the *fiscal* court at or before the time of his appointment, by order entered of record. The other viewers and the members of the board of appraisers shall be paid five dollars ($5.00) per day for the time actually engaged in performing their duties. Rodmen, chain carriers and other laborers employed in the improvement shall receive three dollars ($3.00) per day for their services.

(3) The secretary of the board shall receive three dollars ($3.00) per day for attending the meetings of the board and ten cents (10¢) per one hundred (100) words for matter required to be written or recorded by him.

(4) The treasurer shall receive not more than one per cent (1%) for receiving and disbursing funds under the control of the board. If any bank or any qualified person will execute proper bond and serve as treasurer without remuneration or will pay the district a fee for being allowed to serve as treasurer with the privilege of selecting the depository of the funds, that bank or person may be appointed treasurer within the discretion of the board. The board shall receive bids or terms from all the banks of the city where its office is located that desire to act as treasurer, and select the bank or person that will best serve the interest of the district.

(5) The board, except where otherwise provided, shall by resolution at the time of employing or appointing any person to render services, provide for reasonable compensation for the work done and necessary expenses.

Section 235. KRS 268.250 is amended to read as follows:

(1) When the *board undertakes* [court refers to it any proceeding] to establish or construct any improvement, *it* [the board] shall appoint a competent civil engineer as chief engineer, who may be an individual or a corporation, and who shall engage such assistants as the board approves. The chief engineer shall have control of the engineering work in the district. He may, with the consent of the board, consult any eminent engineer and obtain his opinion and advice concerning the plans for the district. He shall make all necessary surveys of the property within the district, and of any adjacent property that may be affected.

(2) The engineer shall make a written report to the board, with maps and profiles of the surveys, containing a plan for draining, leveeing and reclaiming the property from overflow or damage by water. These maps and profiles shall also indicate, so far as necessary, the physical characteristics of the land and the location of any cities, public roads, streets, railroads, drains and other property located on the land. The report shall also contain an accurate description of each tract of land within the district, giving the name of the owner and his post office address, and a statement showing the quantity of land. The report shall also include a property map, showing the boundary of each tract of land, the quantity of land in each tract, the name of the owner, and all streams, roads, railroads, and the location of all proposed improvements. Everything filed by the engineer shall be made in triplicate by him, one (1) marked original and the others duplicates. The original shall not be withdrawn from the custody of the secretary of the board, but the duplicates may be withdrawn for use by the viewers, the board, or for use on the work by the engineer or contractor, receipted for by the person withdrawing it and returned in due time.

(3) The compensation to engineers for making the preliminary survey and plan shall not exceed ten dollars ($10.00) per day and actual expenses. The compensation of any consulting engineer shall not exceed thirty dollars ($30.00) per day, nor shall a consulting engineer in any district be employed for more than ten (10) days. All engineering fees in the organization of a district under employment by the board shall not exceed five per cent (5%) of the gross cost of the improvement made. *When* any fees *are sought to be* allowed in excess of the above schedule and *entered* [entering] into the total costs as the basis for making the levy of assessments, [shall be grounds for exceptions, which shall be sustained by the court unless the litigation is extraordinary and] permission *shall* [is] first *be* obtained from the *fiscal* court [or judge in vacation to employ additional aid to protect the interest of the district. In that event, the maximum fees to be allowed shall be fixed by the court before the board shall make any such contract].

Section 236. KRS 268.260 is amended to read as follows:

(1) The report of the chief engineer shall be known as the "plan for reclamation." When it is filed, the board shall meet and receive and adopt it, with any modifications determined upon. After the plan has been adopted, the board shall [file a certified copy of it with a copy of the order of the board approving it with the

clerk of the court in which the district was organized.

(2) The court, or the judge in vacation, shall then enter an order] refer [ring] the proceeding to a board of appraisers, to then be appointed by the *board of drainage commissioners* [court], consisting of three (3) resident freeholders of any county in which the district is located who are in no way interested in the proceedings and not of kin within the second degree of consanguinity to any person owning land in the proposed district. They shall appraise the property, assessing benefits and damages based on the doing of the work as described and set forth in the plan for reclamation approved by the board. The *secretary of the board* [clerk of the court] shall transmit to the appraisers a certified copy of the plan for reclamation which has been approved by the board.

(2) [(3)] Each appraiser, at a meeting to be held as soon as possible thereafter, shall take and subscribe to an oath that he will faithfully and impartially discharge his duties and make a true report of the work done by him. The appraisers shall, at the same meeting, organize by electing a chairman.

Section 237. KRS 268.270 is amended to read as follows:

(1) Within ten (10) days after being sworn as provided by KRS 268.260, the appraisers shall begin their duties. They may at any time call upon the attorney of the district for legal advice and information relative to their duties, and the chief engineer or one (1) of his assistants shall accompany them at all times and render his opinion in writing when called for.

(2) The appraisers shall view the premises and determine the value of all property subject to assessment, or which is to be acquired or used as set out in the plan for reclamation. They shall appraise each tract of land separately, and assess the amount of benefits and damages that will accrue to each separate piece of property as a result of execution of the plan for reclamation as adopted by the board.

(3) The appraisers, in assessing the benefits to property not traversed by the improvements as provided for in the plan for reclamation, shall not consider what benefits will be derived by such property after other improvements or plans have been constructed, but they shall assess only the benefits that will be derived from the construction of the improvements set out in the plan for reclamation, or as such improvements may afford an outlet for drainage or protection from overflow of that property. The appraisers shall give due consideration and credit to any other improvements or systems of reclamation that have already been constructed and that afford partial or complete protection to any property in the district. The property shall be assessed according to the increased physical efficiency and decreased annual average maintenance cost by reason of the protection to be derived from the proposed improvements capitalized upon a six per cent (6%) basis. The appraisers shall not change or modify the plan for reclamation.

(4) The appraisers shall prepare a written report of their findings, signed by at least two (2) of them. They shall make three (3) copies of the report, to be filed with the *secretary of the board* [clerk of the court in which the proceeding is pending, and one (1) additional copy for each other county in which any part of the district is located]. This report shall contain a statement of their findings on the following facts: A description of each parcel of property, as described in the engineer's report containing the plan for reclamation; the name of the owner; the name of the county in which it is located; the present value of each separate tract of land per acre; the number of acres in each tract; the quantity of land in each tract to be taken or used; the value of the land to be taken or used; the consequential damage to any property that will result from making the improvement; the enhancement of value of each tract, by the acre, which will result from the improvement; the number of acres in each class of benefits as classified by them.

(5) Each tract shall be reported separately. Substantially the following form shall be followed in this particular:

"(Name of district) .... (drainage), (levee), (reclamation) District, located in the County of ...., Kentucky.

"Name of owner ..... Post office address ..... (Description of land). Located in .... County. Number of acres in tract ..... Present value of land per acre $..... Quantity of land to be taken or used ..... Value of land to be taken or used $..... Consequential damages to adjacent lands ..... Enhancement of value of land which will result from the improvement per acre $.....

No. of acres in tract in class A ....
No. of acres in tract in class B ....
No. of acres in tract in class C ....
No. of acres in tract in class D ....
No. of acres in tract in class E ....
No. of acres in tract in class ....

Remarks: ....."

(6) If the appraisers find any property outside of the district that will be damaged by the proposed improvement, or that must be taken for any improvement set out in the plan for reclamation, they shall give the name of the owner and a description of the property separate from the regular report but attached to it.

(7) They shall also, with the advice of the engineer, estimate and tabulate the cost of improvements set out in the plan for reclamation, to include cost of all property, damages, and the probable expenses of

organization and administration estimated by the board.

(8) The secretary of the board or his deputy shall accompany the appraisers while engaged in their duties, and shall perform all their clerical work. He shall also, under the supervision of the attorney for the district, prepare their report. The appraisers shall report to the board the number of days each was employed and the actual expenses incurred.

Section 238. KRS 268.280 is amended to read as follows:

(1) When the report of the appraisers is filed *the secretary shall cause a notice to be sent to each landowner named in the report whose property is shown to be affected by the proposed improvement.* [in the office of the clerk of the court, if it shows that any property is going to be taken, damaged or affected, the owner of which has not been brought into court by notice on the organization of the district, the clerk shall embrace the name of such owner and a description of the property in the notice to them given by him and in the public notice, that the report of the appraisers has been filed, and set a hearing on a day certain during the next succeeding term of court, which does not convene within less than ten (10) days from the day on which the report was filed in his office.]

(2) The [public] notice given by the *secretary* [clerk] shall be substantially as follows:

["Commonwealth of Kentucky.]

"In re drainage district No. .... [court] of .... County (or of .... Counties), Kentucky.

"Notice is hereby given to all owners of property in (drainage), (levee), (reclamation) district known as (insert name of district), the boundaries of which district are as follows: (here insert boundary description and also a separate description of any property added by the appraisers, together with the name of the owner), and to all persons whose property may be affected, that the board of appraisers has filed in the office of the *secretary of the board* [clerk of this court] its report in which it states and shows the benefits, damages and the assessments of benefits made upon all property in the district, the classification thereof and an appraisal of the value of the property necessary to be taken or used, or which will be affected by the making of the improvement. This proceeding is set for hearing on the .... day of ...., 19.. [, being the .... day of the next .... term of court]. The report is on file in my office and subject to inspection by any person. Any person desiring to file *written objections* [exceptions] thereto, must do so on or before the *day set for the hearing* [.... day of ...., 19.., being the first day of the .... term of court]. *Upon* your failure to *appear or* file *written objects* [exceptions] to the report by that date, *it* will be construed by the *board* [court] that you have no reasons to offer why it should not be confirmed.

"Done by me as *secretary* [clerk] of the .... *board* [court] on this the .... day of ...., 19...

.... *Secretary* [Clerk]."

(3) The clerk shall *also* post a copy of the above notice at the front door of the courthouse of the county where the proceeding is pending, within five (5) days after the report is filed in his office, and shall cause it to be published pursuant to KRS chapter 424. [One (1) copy of each issue of each newspaper containing the notice shall be filed by the clerk as a part of the record in the proceeding. On the first day of the term of court at which the report stands for hearing and trial, the clerk shall file in open court his certificate showing that he has published the notice as required. He shall sign the certificate officially and make it a part of the files of the proceedings. He shall make and attach a copy of his certificate to each duplicate copy of the report of the appraisers on file in his office.

(4) Owners shall have until and including the first day of the term of court at which the report is set for a hearing to file exceptions to it. All exceptions shall be heard and tried by the court on the day the proceeding is set for hearing pursuant to the preceding notice, unless further time be required. The trial of exceptions shall be by the court, except in cases where land is to be condemned, in which case it shall be by a jury as provided in the Eminent Domain Act of Kentucky.]

Section 239. KRS 268.290 is amended to read as follows:

(1) *When the hearing is completed, the board* [If any exceptions are filed to the report of the appraisers, the board may effect an agreement with the person filing exceptions but no agreement shall become binding until approved by the court. If no agreement is effected, a trial shall be had upon the exceptions.

(2) A trial shall first be had on the exceptions to the assessment of damages, which shall, if demanded, be by jury, as provided by the Eminent Domain Act of Kentucky, and shall be governed in all respects by the same rules as therein provided. This shall apply to the damages assessed to the owners of land taken for rights of way, whether the lands or other property be within or without the (drainage), (levee), (reclamation) district. If it is necessary to acquire any right of way or outlet through any land not embraced in the district, it may be acquired in the same proceeding, and the value of the land to be taken and the damage to the adjacent lands used shall be determined in the same proceeding. All damages awarded either for land inside or outside of the district, or for lands actually taken, shall be paid by the board out of the first funds available for that purpose, and the board shall either pay in cash or make provisions for the payment thereof and secure the payment to

the owner before the land is taken or damaged, unless the owner waives payment in advance. The trial of the exceptions to the damages assessed shall be completed before any hearing or trial is had upon any of the exceptions to the assessment of benefits or classification of property in the district.

(3) When the hearing is completed on the exceptions to the assessment of damages, the court shall hear and determine all exceptions to the assessment of benefits and classification of lands, which shall be heard by the court in a summary manner. The courts] shall determine the correctness of the classification and assessment of benefits to each piece of property involved. [, when any exceptions have been filed to the report of the appraisers. The] *If no objections are raised to the report of the appraisers, the* report [of the appraisers] shall be *considered* [prima facie evidence of the fact that their findings are correct] in all respects.

(2) [(4)] If it appears to the *board* [court], after having heard [and determined] all *objections* [exceptions], that the estimated cost of the construction of the proposed improvement contemplated in the plan of reclamation is less than the benefits properly assessed against the property, the *board* [court] shall then approve and confirm the report of the appraisers as to the classification and assessment of benefits as amended or modified by the *board.* [court. The order of the court approving and confirming the report of the appraisers shall also contain the judgment of the court relating to the condemnation of property to be taken or damaged.

(5) If a majority of the owners at this time desire to abandon the proposed improvement, they may do so by showing] *If it appears to the board* that *the* [its] cost exceeds the benefit accruing to the property in the district, *the board shall abandon the proposed improvement.* [If this is shown, the court shall dismiss the proceeding.]

(3) The board shall state its findings and enter it along with an order approving or disapproving the proposed improvement, and file the same with the secretary of the board, who shall note upon the order the date of its filing.

(4) After the report of the appraisers has been filed, if the owners of seventy-five per cent (75%) of the land in the district, or any part of it which is practically separated from the rest, file a petition *with the board* [in the court in which the proceeding is pending] stating that they desire to abandon the proposed improvement, the *board* [court] shall *abandon it* [dismiss the proceeding] at the cost of the landowners.

(5) [(6)] Any person may appeal *to the circuit court within thirty (30) days from the filing of the order of the board. The trial in circuit court shall be de novo.* [from the judgment of the court, either upon the question of classification or the assessment of benefits or damages. The appeal shall be prosecuted in the same manner and within the time provided for in KRS 268.020. No person shall be allowed to raise any question he did not raise in his exceptions to the report of the appraisers in the trial court. The appeal shall not in any way stay the proceedings or affect the classification or the assessment of benefits or damages to any property not directly involved in the appeal, or prevent the execution of the judgment, except that particular part from which the appeal is prosecuted. The judgment shall be construed as a several judgment as to each piece of property.]

Section 240. KRS 268.320 is amended to read as follows:

(1) [The amount awarded for any property acquired by any district for rights of way or improvements, and the amount of damages assessed by the appraisers and confirmed by the court as to any piece of property either inside or outside of the district shall be paid in cash to the owner thereof, or upon his refusal to accept the same to the clerk of the county court for the use of the owner.] That portion of any piece of property not taken for use of the district shall be assessed for the benefits accruing thereto.

[(2) If the sum awarded to the owner of any property to be taken is not paid by the board to the owner or to the clerk within five (5) years from the date the award is finally fixed, all proceedings relating to the taking of that property shall abate at the cost of the district.]

(2) [(3)] When any property is acquired by any district, and the price has been paid or secured to the owner or paid to the clerk of the court by the board, the title and all rights shall pass from the owner to the district.

Section 241. KRS 268.330 is amended to read as follows:

When the decision of the board becomes final [After the clerk of the court has transmitted to the secretary of the board the copies of the appraisers' report corrected according to the judgment of the court, together with the certified copy of the judgment], the board may borrow any money necessary to carry on the business and work of the district, not exceeding seventy-five per cent (75%) of the aggregate assessed benefit as shown by the corrected report of the appraisers. To secure the payment of any loan, the board may pledge the faith and credit of the district. No money shall be borrowed for a longer period of time than the actual needs of the district require, and in no case for more than five (5) years. Every loan shall be repaid as soon as there are sufficient funds in the hands of the treasurer, collected from assessments or realized from a sale of district bonds.

Section 242. KRS 268.340 is amended to read as follows:

(1) Within thirty (30) days after the contract for the improvement is let for all the work provided for under the plan for reclamation, or, if the improvements are made directly by the board, as soon as the cost can be ascertained, the board shall ascertain the cost of doing all of the work, and add all expenses incurred in establishing and organizing the district, including all fees to attorneys, engineers, employes, court costs and the damages assessed against the district. To the total of these sums the board shall add ten per cent (10%) of the total, to defray the future expenses of the district, including the salaries and fees for services to be thereafter rendered by the members of the board, their agents and employes, including engineers and attorneys, and any other necessary expenses which cannot be foreseen. This aggregate sum shall be called the minimum district assessment. If bonds are to be issued and sold for the district, the board shall then determine the length of time the bonds are to run, and calculate the total amount of interest that will accumulate upon the entire bond issue, the par value of which shall not exceed ninety per cent (90%) of the total minimum district assessment. The total of the interest that will accumulate during the period the bonds are to run up till maturity shall be called the district interest assessment. The board shall then add together the two (2) sums, the minimum district assessment and the district interest assessment. The total shall be called amount of which two (2) sums shall constitute the maximum district assessment.

(2) The board shall then ascertain what per cent the minimum district assessment is of the total assessed benefits to all property in the district, as shown by the *corrected* appraisers' report [, corrected by the court and certified by the clerk to the secretary of the board]. The board shall also ascertain what per cent the total interest assessment is of the total assessed benefits to all such property.

(3) The board shall then apportion the minimum district assessment to each separate piece of property, so that each shall bear its ratable part of the minimum district assessment. It shall then in like manner apportion the district interest assessment to each piece of property. The board shall then levy a drainage assessment upon the district for the amount of the minimum district assessment, also for the amount of the district interest assessment, and then prepare a drainage assessment record for the district, and as many copies as there are counties in which any part of the district is situated, plus two (2) additional copies, one (1) of which shall be for the board, and the other to remain permanently in the office of the *county* clerk *in the county in which the district is organized* [where the proceeding is pending].

Section 243. KRS 268.350 is amended to read as follows:

The drainage assessment record provided for in KRS 268.340 shall be in substantially the following form:

"Drainage Assessment Record

of .... (drainage), (levee), (reclamation) district, located in the County of ...., Kentucky. The board of drainage commissioners of .... County has ascertained from an inspection of the report of the appraisers [, as certified by the clerk,] that the total aggregate of benefits to all of the property in the district is $...., and that the cost of making the improvements provided for in the plan for reclamation and the cost of the proceedings in establishing and organizing the district up to this time are $...., to which sum we have, as provided by law, added ten per cent for the purpose of defraying future expenses and to create an emergency fund, making the total minimum district assessment of $...., which we now levy and assess against the district. It is ordered that a district bond issue be authorized of ninety per cent of the minimum district assessment of $...., to consist of fifteen series of equal amount, bearing six per cent per annum interest payable semiannually. One-fifteenth of the total issue of bonds shall mature and be payable annually. The first series shall become payable five years from the date of issue, and the last series twenty years from the date of issue.

"It is ascertained that the total amount of interest that will accumulate on the bonds from the date of issue until maturity will be $...., and this board therefore orders that there be levied upon all property in the district an interest assessment amounting to $.....

"We do hereby apportion both the minimum district assessment and the district interest assessment to each piece of property located in the district, ratably according to the assessment of benefits as appears in the board of appraisers' assessment of benefits as amended, modified and corrected [by the court, certified to this board by the clerk of the court,] and shown in the following table:

Table of District Assessments

Name of (owner), (railroad), (public highway) .... Post office address ....

Number of (acres of land), (miles of road) assessed as benefited ....

In what county located Total amount of benefits assessed $.... Total amount of minimum district assessment $....

Total amount of district interest assessment ....$.... Total maximum assessment ....$....

"The board of drainage commissioners hereby submits the above as a true and correct assessment roll upon the lands, railroads, public highways and other property subject to assessment in the .... (drainage), (levee), (reclamation) district, and prays the *county judge* [court] to confirm it.

Respectfully submitted.

Board of drainage commissioners of .... County.

By ...., President.

Attest: ...., Secretary.
(Space for correction by clerk upon order of court) ....
The above is a correct assessment. Attest: .... Clerk."

Section 244. KRS 268.360 is amended to read as follows:

(1) As soon as the drainage assessment record is completed, the board shall deliver the copies to and file them with the clerk of the *county* court *in which county the district is organized* [where the proceeding is pending]. The clerk shall receive them, and, beginning within five (5) days, publish notice of such filing pursuant to KRS chapter 424. The notice shall be in substantially the following form:

"State of Kentucky, ... court.

"County of .....

"In the matter of the .... (drainage), (levee), (reclamation) district [, pending in this court]. Notice is hereby given to all persons interested that the board of drainage commissioners of .... County did on the .... day of ...., 19.., file in my office .... copies of the drainage assessment record for the above district in which they show the aggregate costs of the improvements to be made according to the plan for reclamation, also the aggregate of all benefits to property and the minimum district assessment and the apportionment thereof to each piece of property, together with the total of such assessments which are to be paid for each separate piece of property.

"All persons interested are hereby notified that they may inspect this record at any time, and are given until [the first day of the next] .... [term of this court] to file *written objections* [exceptions] to these final assessments.

" [Court will convene on the .... day of ...., 19...] Unless you file *objections* [exceptions] thereto by that date, it will be taken for granted [and confessed by the court] that the assessments are correct, and correctly apportioned to each separate piece of property, and they will be confirmed [by the court], and become the fixed assessments upon each piece of property.

"Given under my hand as clerk of the .... *county* court, on this the .... day of ...., 19...

.... Clerk."

(2) [Exceptions may be filed by any owner of property assessed up to and including the first day of the next succeeding term of court which convenes after the week in which the notice by the clerk has been published, but not thereafter.] If *objections* [exceptions] are filed, they shall be *determined* [heard] by the *judge* [court] in a summary way [, upon the files and records of the proceedings and other competent evidence]. If errors are found [by the court], they shall be by proper orders corrected. The order of the *judge* [court] shall direct the clerk to show such corrections on all the copies of the assessment record in red ink. When all errors in the assessment are ordered corrected by the *judge, he* [court, the court] shall approve the assessment record.

(3) The final order of approval and confirmation by the *judge* [court] shall be final and conclusive upon all property within the district. The assessment record, when corrected by the clerk under orders of the *judge* [court], shall be indorsed by the *judge* [court] as the assessment record of the district, and thereafter no question may be raised concerning the correctness of any assessment shown in the record.

(4) One (1) of the several copies of the assessment record, properly corrected and indorsed by the judge, shall remain in the office of the clerk of the *county* court. The remaining copies shall be certified and delivered by the clerk to the secretary of the board of the county in which the *district was organized* [proceeding is pending].

Section 245. KRS 268.370 is amended to read as follows:

(1) The board of drainage commissioners may, if in their judgment it seems best, issue bonds on behalf of any district under their control, not to exceed ninety per cent (90%) of the total amount of the minimum district assessments levied upon the property of the district approved by the *judge* [court]. The bonds shall be in denominations of not less than one hundred dollars ($100), bearing interest payable annually from the date of issue at a rate not to exceed six per cent (6%) per annum, to mature at annual intervals within thirty (30) years, commencing after a period of years not later than five (5) years, to be determined by the board. Both principal and interest shall be payable at some convenient bank or trust company's office, to be named in the bonds. The bonds shall be signed by the president of the board, attested with the seal of the board and the signature of the secretary and countersigned by the clerk of the county court of the county in which the district is organized. All bonds shall be executed and delivered to the treasurer of the district, who shall sell them in such quantities and at such dates as the board considers necessary. The funds derived from the sale of bonds shall be used only to pay the cost of improvements and the expenses, fees and salaries authorized by

law. The secretary of the board shall certify to the clerk of the county court in which the district was organized a copy of the resolution authorizing and directing the issuance of the bonds, which shall contain a list of the bonds, their dates of maturity and amounts. The clerk shall record this resolution in the lis pendens record in his office. Bonds shall not be sold for less than their par or face value at the date of issue. They shall show on their face the purpose for which they are issued.

(2) The bonds shall be payable out of money derived from the assessments upon property, and a sufficient amount of the drainage assessment shall be appropriated by the board to pay the principal and interest. This sum shall be preserved in a separate fund for that purpose. All bonds and coupons not paid at maturity shall bear interest at the rate of six per cent (6%) per annum from maturity until paid, or until sufficient funds for their payment have been deposited at the place of payment, and this interest shall be appropriated by the board out of the penalties and interest collected on assessments or any other available funds of the district. The board, in making the annual levy of assessments, shall take into account the maturing bonds and interest on all bonds and make ample provisions in advance for their payment. If the proceeds of the original levy of assessments are not sufficient to pay the principal and interest of all bonds issued, the board shall make any additional levy upon benefits assessed necessary for this purpose. However, no levy of assessments shall be made in excess of the benefits to the property as shown by the report of the appraisers, as corrected [and confirmed by the court], that will in any manner impair the security of bonds or the fund available for the payment of the principal or interest.

(3) When he receives the bonds the treasurer shall execute and deliver to the president of the board a bond with good and sufficient sureties, to be approved by the board, conditioned that he shall account for and pay over as required by law and as ordered to do by the board all money received by him on the sale of any bonds, and that he will only sell and deliver such bonds to the purchaser thereof according to the terms of this section, and that he will return, duly canceled, any bonds not sold to the board when ordered by it to do so. This bond shall remain in the custody of the president of the board, who shall produce it for inspection or as evidence whenever legally required to do so. The bond of the treasurer may, if the board directs, be signed by a surety or bonding company, which may be approved by the board. The successor in office of any treasurer shall comply with all provisions applicable to his predecessor before receiving bonds or their proceeds. The treasurer shall promptly report all sales of bonds to the board.

(4) The board shall, at reasonable times thereafter, prepare and issue warrants for the payment of the maturing bonds so sold and the interest payments coming due on all bonds sold. Each warrant shall specify what bonds and accruing interest it is to pay, and the treasurer shall place sufficient funds at the place of payment to pay the maturing bonds and coupons when due, as well as a reasonable compensation to the bank or trust company for paying them, not to exceed two dollars and fifty cents ($2.50) for each one thousand dollars ($1,000) par value of bonds or coupons paid.

Section 246. KRS 268.380 is amended to read as follows:

(1) If bonds are issued or money borrowed, the interest charges thereon shall not be considered a part of the cost of improvement in determining whether or not the cost of improvement is equal to or more than the benefit to the property in the district.

(2) The assessed enhancement of value [confirmed by the court] shall be conclusive as to the benefit that will inure to the property in the district.

Section 247. KRS 268.390 is amended to read as follows:

(1) When the secretary of the board receives from the clerk the copies of the assessment record, corrected by the *county judge* [court] and certified by the clerk, he shall notify the board which shall then meet and impress its seal on each page of each copy of the assessment record.

(2) The secretary shall then give notice that the corrected assessment record is in his hands, and that all persons whose property has been assessed may by a day certain to be stated in the notice, which shall be not less than thirty (30) nor more than sixty (60) days, pay to the treasurer of the board the minimum assessment levied against his property and have the lien upon the property released. Any person, on or before the day fixed in the notice, may pay to the treasurer the minimum assessment against any property, and take his receipt therefor showing the amount paid. *A canceled check shall be the equivalent of a receipt. The treasurer* [He shall then show this receipt to the secretary of the board, who] shall indorse below the notation of that assessment on each copy of the assessment record in his hands in red ink the words "paid in full by ....," giving the date, and sign his name.

(3) Immediately after the date fixed in the notice on which payments of assessments may be made, the board shall meet and adopt a resolution which shall be spread upon the records of the board, stating the total amount of bonds to be issued for the district and fixing the number of series, the time of payment of each series and the denominations.

Section 248. KRS 268.400 is amended to read as follows:

(1) As soon as the board has adopted the resolution relative to the issue of bonds, the secretary shall prepare a district assessment register in a well-bound book and as many copies thereof as there are counties in which any part of the district is located. This register shall contain the name of the owner of each piece of property found in the report of the appraisers in the assessment of benefits, a description of the property assessed, as modified [and confirmed by the court], the minimum district assessment, the interest district assessment and the annual instalment to be paid each year for the time the bonds are to run, except when the minimum district assessment has been previously paid.

(2) The district assessment register shall be in substantially the following form:

"The district assessment register of .... district, in the County (Counties) of ...., Kentucky. Whereas the .... district, located in the County (Counties) of .... in the state of Kentucky, was duly established by the orders of the .... County, and thereafter the plan for reclamation of the district and the report of the appraisers, containing the assessment of benefits and damages, were approved [and confirmed by the court], and the proceedings referred to the board of .... County, to cause such improvements to be made, and to levy an assessment upon the property in that district to pay for them, to issue bonds and cause the assessment to be collected, and whereas said board after ascertaining the cost of the improvements, did levy a district minimum assessment and a district interest assessment, and apportion them to the property in the district according to the ratio of benefits, which was also correct*ed* [,] *and* approved [and confirmed by the court], the board now certifies that the following is a true and correct table of assessments so levied upon, and to be paid on each piece of property, together with the annual instalments thereof, which shall become due and payable at the same time and place, and collectible by the same person and in the same manner that state and county taxes are payable and collected. This district assessment register is the authority of the tax collector of each county in which any part of the .... district is located for demanding and collecting the assessments.

Name of owner Post office address Description of property assessed In what county located No. of acres Amount of assessed benefits $.... Total amount of minimum district assessment $.... Total amount of district interest assessment .... $.... Total maximum assessment .... $.... Amount to be collected for the year 19........
19.., ... $....,
Paid by .... Collector. Amount to be collected for the year 19..
19.., ... $...., Paid by .... Collector. Amount to be collected for the year 19....................
19.., ... $....,
Paid by .... Collector.
The collector of taxes in the County of .... is hereby ordered to collect the above assessment and pay same to the treasurer at the time required by law each year. Done by order of the board of drainage commissioners of .... County, Kentucky, on this the .... day of ...., 19...
Attest: .... Secretary
.... President
(Seal)"

(3) Each assessment shall be on a separate sheet, and there shall be as many spaces prepared for the sheriff to sign as there are annual payments to be made. Each sheet shall be signed by the president and attested by the secretary, and the official seal of the board shall be attached at the bottom of each page. When the sheriff collects any annual instalment of the assessment he shall give the payer a receipt and indorse it paid on the blank space on the assessment sheet.

(4) When the district assessment register has been completed the secretary shall deliver a copy to the county clerk in each county where any part of the district is located and take his receipt therefor. The clerk shall file and keep it in his office as a permanent record.

Section 249. KRS 268.430 is amended to read as follows:

(1) When ordered by the board the treasurer shall receive the annual payment of drainage assessments directly from any owner, and shall give a proper receipt. On December 1 of each year the treasurer shall certify to the sheriff a list of all property on which drainage assessments for that year have not been paid to the treasurer. Any assessments not paid to the treasurer or sheriff shall be treated by the sheriff as delinquent drainage taxes. This section shall not relieve the board or sheriff of any duty.

(2) No collection of assessments shall be defeated [, where the parties were properly before the court,] because of any irregularity in the proceedings which did not affect the substantial rights of the party complaining.

Section 250. KRS 268.450 is amended to read as follows:

If the board believes the interest and welfare of the owners will be best served by not requiring any part of the minimum district assessment to be collected for not more than five (5) years from the time the minimum and interest assessments are confirmed by the *county judge* [court], it shall by resolution fix the time when the first annual assessment shall become payable. However, sufficient annual assessments shall be levied and collected each year till the year the first instalment of the minimum and interest assessments are due to pay the interest on the bonds, plus the cost of levying and collecting them. The annual interest instalments shall be levied on all property in the exact ratio of the assessments confirmed by the *county judge* [court].

Section 251. KRS 268.500 is amended to read as follows:

(1) Any person who acquires title to any property affected by any proceeding under this chapter, after the filing of the petition for establishment of any district and the giving of notice thereof by the clerk of the court, shall be deemed privy to the person owning or in possession under claim of ownership at the time of filing the petition, and shall be bound by all subsequent proceedings as the owner at that time would have been bound if he had remained owner of the property. The property assessed shall in each instance be liable for the assessment against it, and each instalment of any assessment shall be paid by the owner in possession at the time any instalment becomes due.

(2) Any land assessed for benefits in which one or more persons own the life estate with the remainder to some other person, shall be assessed as any other land by the appraisers, and the name of the life tenant and the remainderman reported if known, but the remainderman or reversioner need not be brought *in the proceedings* [before the court] before his interest becomes vested. The assessment *may be* paid by either the life tenant or the remainderman, and when so paid the owner not paying shall be liable to the one who pays the assessment for such proportion of the amount paid as his interest in the property bears to the total property assessed according to the life tables at the time in use in this state. The person who pays shall have, for his own benefit, the same lien provided for the original assessment, which may be enforced by action in any court of competent jurisdiction. An owner of any undivided interest in lands may pay the whole assessment and be entitled to like contribution and substitution.

Section 252. KRS 268.510 is amended to read as follows:

(1) In order to effect the drainage, protection and reclamation of the land and other property in any district organized under this chapter subject to assessment, to protect cities from overflow, and to promote the public health or general welfare of the community, the board acting for the district may clean out, alter, construct or maintain any drain in or out of the district, and construct and maintain any levees, dikes, dams, revetments, reservoirs, holding basins, floodways, pumping stations, syphons and any other work and improvements deemed necessary to preserve and maintain the works or prevent overflow of land or protect any city or parts thereof in or out of the district. The board may construct or enlarge any bridge needed in or out of the district across any drain or other improvement or any public highway, railroad right of way, track, grade, fill or cut, subject to the provisions of KRS 268.530; construct roadways upon, along and over levees and embankments; remove any fence, building or improvement in or out of the district.

(2) The board may hold, control and acquire by donation or purchase, or, if need be, condemn any land, easement, railroad right of way, sluice, conduit, sewer, holding basin or franchise in or out of the district for any purpose provided for in this chapter.

(a) The board may also condemn, *pursuant to* [in the manner provided in] the Eminent Domain Act of Kentucky, for the use of the district any property within or without the district not acquired or condemned by the *board* [court] on the report of the appraisers.

(3) The board may control all water power created by the construction of improvements in the district, and construct and maintain any hydroelectric power plants to develop such power for the use of the district and use any funds in the treasury of the district not otherwise appropriated for the construction and maintenance of such plants. The board may lease any power in excess of that required for the use of the district. The proceeds of such lease shall be turned in to the treasury of the district.

(4) However, the construction or maintenance of any improvement shall not impair navigation upon any navigable stream in this state.

Section 253. KRS 268.590 is amended to read as follows:

(1) If the work set out in the plan for reclamation of any district is found insufficient to reclaim all of the property of the district, the board may formulate new or amended plans containing new improvements or providing for the enlargement of existing improvements. Additional assessments may be made in proportion to the increased benefits accruing to the property because of the additional improvements.

(2) If it is found at any time that the amount of total assessments is insufficient to pay the cost of improvements in the plan for reclamation, or additional work done under the provisions of this section, the board of drainage commissioners may make additional levies to provide funds to complete the work.

(3) The total of all levies of assessments shall not exceed the total amount of benefits assessed [, as approved and confirmed by the court].

Section 254. KRS 268.600 is amended to read as follows:

(1) The board, or the owners of property adjacent to the district who desire to have their property made a part of the district, may file a petition with the clerk of the *fiscal* court organizing the district praying the court to amend its former *order* [judgment] organizing the district, by correcting the plan, striking out or adding the names of owners or property, or by any other means. If the petition asks permission to change the plan for reclamation or that the boundary lines be changed, it shall also ask *for* [the court to appoint] three (3) appraisers *to be appointed* as provided in KRS 268.260 for the original proceedings.

(2) As soon as the petition is filed, the clerk of the *fiscal* court shall give notice as other notice is given, and substantially in the following form:

"..... Court.

Commonwealth of Kentucky.

To ...., Greeting:

"(Name of owner of land)

"To the owners and all persons interested in the property in and adjacent to (drainage), (levee), (reclamation) district No. .... of .... County (Counties), Kentucky.

"(Here insert the names of all persons who are shown in the petition to own land sought to be annexed to the district).

"You are hereby notified that (here state by whom petition was filed) has filed in the office of the clerk of the .... court a petition praying the court for permission to (here insert the prayer of the said petition) (and if it contains a prayer to annex land, describe the land), and unless you show cause to the contrary on or before the [next term of the .... court, to be held on] the .... day of ...., 19.., the prayer of this petition may be granted.

"This .... day of ...., 19...

.... Clerk."

Section 255. KRS 268.610 is amended to read as follows:

Any owner who will be affected by the proposed changes, amendments and corrections enumerated in the petition provided for in KRS 268.600, may file objections to the granting of the prayer of the petition by the *date named in the notice* [first day of the term of court at which the petition is to be heard]. The *fiscal* court will hear such petition and all objections filed against it in a summary manner and enter its *order* [judgment]. The clerk of the court shall within fifteen (15) days after the entering of the *order* [judgment], transmit a certified copy of the *order* [judgment] and a copy of the petition to the secretary of the board, who shall transmit a copy to the clerk of the county court of each county in which any property in the district is located. The clerk shall file and preserve these copies in his office, for which he shall receive a fee of one dollar ($1.00). If the *order* [judgment] of the court provides that the plan for reclamation be changed or the boundary lines of the district extended, the *board* [court] shall direct the appraisers to appraise the property to be taken, assess benefits and damages and estimate the cost of the improvements as in KRS 268.260 and 268.270. The appraisers' report shall be treated in the same manner as is now provided for in the original formation of districts [and judgment rendered accordingly]. If the petition is dismissed the party filing it shall pay the costs, but if it is sustained in whole or in part the objectors shall pay the costs.

Section 256. KRS 268.640 is amended to read as follows:

If upon the dissolution of any district organized under this chapter any money is in the hands of the treasurer, after all liabilities of the district are satisfied, it shall be pro rated to the several pieces of property according to the assessed benefits [confirmed by the court] in the organization of the district. The pro rata share shall be paid to the then owner of the property.

Section 257. KRS 268.650 is amended to read as follows:

In counties containing not more than one drainage district established under chapter 268 of the Kentucky Revised Statutes, or under the act of 1918 from which it came, twenty-five per cent (25%) of the landowners, or the owners of twenty-five per cent (25%) of the land, may, at any time petition the *fiscal* [county] court for a discontinuation of the improvement. The petition shall give the names of all persons interested in the maintenance of the improvement and owning land in the district. The court shall *conduct a hearing on the matter* [place the petition upon the docket of the court that convenes not less than fifteen (15) days after its filing], and shall issue notices *thereof at least 15 days before the hearing* and cause them to be served upon all parties interested, notifying them that the court will consider them at the *hearing* [next term]. If no valid reason is shown against the discontinuance of the improvement, the court shall enter an order discontinuing it, after which it shall cease to be a public improvement. An appeal may be had from the order to the circuit court, as provided in the establishment of improvements.

Section 258. KRS 269.210 is amended to read as follows:

The corporation may extend its ditches, make other ditches, connect with any creek or stream and straighten or cut across any curve to facilitate drainage, and, when necessary, take the lands of private persons. The corporation is vested with the right and power of eminent domain for the condemnation of land that may be necessary, which remedy shall be pursued as provided by the Eminent Domain Act of Kentucky, the proceedings to be brought by the corporation in the *circuit* [county] court, providing due compensation to the owners of land.

Section 259. KRS 272.321 is amended to read as follows:

(1) A member of a constituent association to be effected by a merger or consolidation may give to the association prior to or at the meeting of its members to which the proposal of merger or consolidation is submitted to a vote, written notice that he objects to such proposal. Within twenty (20) days after the date on which the vote was taken, such member may, unless he votes in favor of the proposal, make written demand on the association for payment of the fair market value of his stock or other property rights or interest in the association. Such demands shall state the number and class of shares of stock owned by him or the nature and amount of other property rights or interest owned by him in the association. In addition to any other right he may have in law or equity, a member giving such notice shall be entitled, if and when the merger or consolidation is effected, to be paid by the surviving association, or new association, the fair market value of such stock, or other property rights or interests, as of the day prior to the date on which the vote was taken, subject only to the surrender by him of the certificate, or certificates of such stock or other evidence of ownership or other property rights or interests.

(2) If within thirty (30) days after the date upon which the objecting member tendered his written demand for payment of his stock or other property rights or interest, the fair market value of such stock or other property rights or interests is agreed upon between the member and the surviving association, the payment therefor shall be made within sixty (60) days after the date of such agreement, upon surrender of the certificate or other evidence of such property rights or interests, whereupon the member shall cease to have any interest in such stock or other property rights or interest in the association.

(3) If, during the thirty (30) day period mentioned in the preceding subsection, the member and the surviving association or new association do not agree as to the fair market value of such stock or other property rights or interests, the member may, within sixty (60) days thereafter, file a petition in the circuit court of the county in which the surviving association or new association has its registered office or principal place of business asking for the appointment of three (3) disinterested appraisers to appraise the fair market value of his stock or other property rights or interests. A summons, together with a copy of the petition, shall be served on the surviving association or new association at least twenty (20) days prior to a hearing on the petition by the court. The award of the appraisers, or a majority of them, if no exceptions be filed thereto within ten (10) days after the award has been filed in court, shall be confirmed by the court, and when confirmed shall be final and conclusive, and the member, upon depositing with the court the proper stock certificates or other evidence of such property rights or interests, shall be entitled to judgment against the association for the appraised value thereof as of the day prior to the date on which the vote was taken. If either party files exceptions to the award of the appraisers within ten (10) days after the award has been filed in court, the case shall be transferred to the civil issue docket of the circuit court for trial [during the next term] and shall be there tried in the same manner, as near as may be practicable, as is provided for the trial of cases under the eminent domain law of this state, and with the same right of appeal to the Court of Appeals. The court shall assess the cost of the proceedings as it deems equitable. Upon payment of the judgment, the surviving association or new association is entitled to have the member's stock certificates or other evidence of such property rights or interests surrendered to it by the clerk of the court. Unless the member files such a petition within the time prescribed, he, his assigns and heirs claiming under him shall have no right to payment hereunder, but in that event nothing herein shall impair his status as a member.

(4) If the notices sent to members in connection with any meeting to vote upon a proposed merger or consolidation make no reference to the provisions of subsection (1), a member entitled to but through lack of actual knowledge did not avail himself of the provisions of this section, unless he voted for the proposal, is entitled, if he so demands in writing within one (1) year after the date on which the vote was taken on the proposed merger or consolidation, to recover from the surviving association or new association any actual damage which he suffered from failure of the association of which he was a member to make such reference.

(5) The liability to pay for stock or other property rights or interests or to pay damages imposed by subsection (4) on an association extends to the surviving association or new association.

(6) Shares of stock acquired by an association, a surviving association, or a new association pursuant to the payment of an agreed fair market value thereof or to payment of a judgment entered therefor may be held and disposed of by such association as in the case of other treasury shares.

(7) This section does not apply to a merger if on the date of the filing of the articles of merger the surviving association is the owner of all outstanding shares of the other association or associations, domestic or foreign, participating in the merger and if the merger makes no changes in the relative rights of the members of the surviving association.

(8) No member of a constituent association to be effected by a merger or consolidation, who objects thereto and makes written demand for payment of the fair market value of his stock or other property rights or interests in the association, as provided in this section, is entitled to payment at any time prior to the time that he would otherwise be entitled to payment pursuant to valid provisions of such stock, or valid provisions of the articles of incorporation or bylaws of the association, in effect on the date of the vote for such merger or consolidation.

Section 260. KRS 273.080 is amended to read as follows:

All property procured for any adjunct school or college shall be held and applied by the governing body of the institution establishing it for the purpose of establishing and maintaining the adjunct school. The governing body may procure grounds and erect buildings for its use and occupation, appoint and remove its teachers, prescribe a *course* [court] of study for its students, confer degrees of graduation from it and exercise the same general supervision and control over it that they may exercise over their own institution.

Section 261. KRS 276.375 is amended to read as follows:

This section may be referred to as the "Railroad Commission Judicial Review Act."

(1) This section governs judicial review of final decisions of the Kentucky railroad commission only.

(2) Any party to a proceeding before the Kentucky railroad commission (hereinafter referred to in this section as the commission) who has exhausted all administrative remedies available within the commission, and who is aggrieved by a final decision of the commission, is entitled to judicial review of such final decision under this section, but not otherwise.

(3) The commission may, in accordance with its general rules of practice, and if sufficient reason therefor be made to appear, grant applications for rehearing, reargument, modification or reconsideration of its orders.

(4) If after rehearing, reargument or reconsideration of a decision or order, it shall appear that the original decision or order is in any respect unjust or unwarranted, the commission may reverse, change or modify the same accordingly. Any decision or order made after rehearing, reargument or reconsideration, reversing, changing or modifying the original determination shall be subject to the same provisions with respect to rehearing, reargument or reconsideration as an original order.

(5) Where application for rehearing, reargument, reconsideration or modification of a decision or order of the commission is made in accordance with the provisions of this section and the rules and regulations of the commission, and the decision or order has not yet become effective, the decision or order shall be stayed or postponed pending disposition of the matter by the commission. If the decision or order has become effective, the making of such an application shall not excuse any person from complying with or obeying the decision or order or operate to stay or postpone the enforcement thereof, without the special order of the commission. Provided, however, that the commission must act on such petition within 20 days of its filing with the commission and the failure to so act results in such petition being denied as a matter of law and the decision or order in question thereupon becomes final and subject to judicial review pursuant to the provision of this section.

(6) When an application for rehearing, reargument, reconsideration or modification of any commission decision or order shall have been made and shall have been denied, either expressly or as a matter of law, or after rehearing, reargument or reconsideration, otherwise disposed of by the commission, a suit to review, enjoin, suspend or set aside such decision or order, in whole or in part, may be brought under the provisions of this section, but not otherwise.

(7) Suits to review, enjoin, suspend, or set aside final commission decisions or orders are instituted by filing a petition in the Franklin Circuit Court within 20 days after the party bringing such suit is served with the decision or order sought to be reviewed, enjoined, suspended or set aside, within 20 days of the day a decision or order becomes final under subsection (5) of this section or within 20 days after the party bringing such suit is served with an order disposing of a petition for rehearing, reargument, reconsideration or modification. Copies of the petition shall be served upon the commission and all parties to the commission proceeding sought to be reviewed.

(8) All actions specified in subsection (7) of this section shall be brought by or against the Kentucky railroad commission.

(9) Any party or parties in interest to the proceedings before the commission, in which a decision or order is made, may appear as parties on their own motion and as of right, and be represented by their counsel, in any action involving the review of such decision or order or any part thereof.

(10) The pendency of an action to review, enjoin, set aside or suspend any order of the commission shall not of itself stay or suspend the operation of the order, but the court may, in the manner provided by law, and subject to the provisions of subsection (11) hereof, restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the action.

(11) Subject to the exceptions enumerated in this subsection, injunctive relief may be sought and granted in the manner provided by law. Provided, however, that in no event or under any circumstances shall any court [,] *or* clerk of court [, or county judge] grant or issue any temporary restraining order or temporary injunction during the pendency of any action under this section unless and until the party requesting such restraining order or temporary injunction has given adequate bond as required by Kentucky Rule of Civil Procedure 65.05, the provisions of any other sections of Kentucky Revised Statutes, rules, or cases to the contrary notwithstanding. The court [,] *or* clerk of court [, or county judge] shall have no power or discretion to relieve any applicant for a temporary restraining order or temporary injunction from the requirement of posting such bond. Provided, further, that no temporary restraining order or preliminary injunction enjoining or restraining the collection of increased rates and charges, shall be issued in cases where the commission has approved, authorized or required tariffs of increased rates or charges, when one of the provisions of such tariffs requires the railroads collecting such increased charges to refund to the persons paying such charges the difference between the rate or charge collected and the rate or charge finally approved, authorized or required by the commission. In all such cases, the commission decision or order shall become effective pending review under this section.

(12) Within 30 days after the service of the petition, or within such further time as may be allowed by the court, the commission shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. The cost of preparing and certifying the record (which shall not exceed the rates allowed the official court reporter) shall be paid to the commission by the party taking the appeal, and taxed as part of the costs, to be paid as directed by the court upon final determination of the action. Copies of the record shall be furnished at cost to any party to the proceedings. By stipulation of all parties to the proceedings, the record may be shortened. A party unreasonably refusing to limit the record may be taxed by the court for the additional costs.

(13) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the commission, the court may order that the additional evidence be taken before the commission upon conditions determined by the court. The commission may modify its findings, conclusions, decisions or orders by reason of the additional evidence and shall file that evidence and any modifications, new findings, new conclusions, new decisions or new orders with the reviewing court.

(14) The review shall be conducted by the court without a jury and shall be confined to the record of the proceeding before the commission. In cases of alleged irregularities in procedure before the commission, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs. In all review actions under this section, the burden of proof shall be borne by the party seeking to enjoin, suspend, set aside or vacate the commission's decision or order, in whole or in part.

(15) The reviewing court shall:

(a) Compel commission action unlawfully withheld or unreasonably delayed; and

(b) Hold unlawful and set aside commission action, findings, conclusions, decisions and orders found to be

1. Arbitrary or capricious, characterized by abuse of discretion, or otherwise not in accordance with the law;
2. Contrary to constitutional right, power, privilege or immunity;
3. In excess of statutory jurisdiction or authority, or limitations, or short of statutory right;
4. Deficient because of the commission's failure to observe procedures required by law; or
5. Unsupported by the preponderance of the reliable, probative, and substantial evidence on the record as a whole.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

Section 262. KRS 280.230 is amended to read as follows:

If no owner of the land on either side of the stream over which a public highway passes will obtain the ferry privilege, or if such an owner, after obtaining the privilege, abandons it or fails to keep it up according to law, the county court may, after reasonable notice, grant the privilege to another. When it is necessary to the proper exercise of the privilege by such grantee, *an action may be brought to condemn* [the court may cause to be condemned] permanently, or for not more than twenty (20) years, at the option of the owner of the privilege, not more than two (2) acres of ground adjoining the landing, together with the use, for ferry purposes, of any adjacent uninclosed bank of the stream. Condemnation shall be pursuant to the Eminent Domain Act of Kentucky.

Section 263. KRS 280.240 is amended to read as follows:

At the time of granting any ferry privilege, the *county* court shall prescribe the number and kind of boats to be kept, the number of hands to be employed, and how the boats shall be propelled, and may, once in each year thereafter, change the same, after notice to the person granted the privilege. Where the rapidity of the current does not require the ferry boat to be propelled by poles, the court shall prescribe that the boat shall have a substantial railing at least two (2) feet high on its sides.

Section 264. KRS 280.250 is amended to read as follows:

(1) At the time of granting any ferry privilege, the *county* court shall fix the rates of toll to be charged at the ferry, which shall be in the following proportions: For every heavy four-wheeled wagon, carriage or coach and driver, the same as for six (6) horses; for every light or open four-wheeled carriage or light wagon and driver, the same as for four (4) horses; for every two-wheeled carriage or cart and driver, the same as for two (2) horses; for every hogshead of tobacco, not in a wagon or cart, the same as for one (1) horse; for every head of neat-cattle, the same as for one (1) horse; for every sheep, goat, hog or lamb, one-fifth (1/5) as much as for a horse.

(2) The rates may be changed by order from time to time, but before an increase may be made reasonable notice of the application must be given to the county attorney, or posted for at least one (1) month on the courthouse door, and before a reduction may be made the county attorney must have written notice served on the owner of the ferry.

(3) No owner or keeper of a ferry, or agent or servant thereof, shall demand or take from any person a greater toll than that allowed by the order of the county court fixing the rates of toll at his ferry. A violation of this provision by a keeper, agent or servant shall be deemed a violation by the owner.

Section 265. KRS 280.290 is amended to read as follows:

(1) Any person interested may appeal from any order of the county court concerning a ferry or ferry rates to the circuit court of the county, and thence to the Court of Appeals, both of which shall have jurisdiction of law and fact, but the Court of Appeals of only such facts as are certified from the circuit court. The appeal [shall be taken at the time of making the order or during the term, and] shall be prosecuted to the circuit court within *thirty (30) days* [three (3) years] from the making of the order, and to the Court of Appeals *in accordance with the Rules of Civil Procedure* [within one (1) year from the making of the order in the circuit court]. The county attorney may [, within sixty (60) days from the date of the order,] take an appeal in the name of the Commonwealth from any order of the county court concerning a ferry or ferry rates, but only if some person becomes responsible to the adverse party for the cost incident thereto.

(2) The circuit court shall hear each appeal brought under subsection (1) of this section as an original case, and may command the county court to enter an order in conformity with the judgment of the circuit court.

Section 266. KRS 280.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 280.010 to 280.110 or any of the rules, regulations or orders of the department of highways made thereunder shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) for each day that the violation occurs.

(2) Any person who violates any of the provisions of KRS 280.120 or 280.130 shall be fined not less than one hundred dollars ($100) for each day that the violation continues, and for the third conviction the charter shall be revoked.

(3) Any person who violates any of the provisions of KRS 280.140 or 280.150 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000). In addition, any such violation by a consolidated corporation of the type mentioned in KRS 280.140 shall be cause for the forfeiture of all its rights, powers, privileges, immunities and franchises, and in case of such violation the governor or attorney general may institute and prosecute the proper judicial proceedings to effect such forfeiture.

(4) Any person who violates any of the provisions of subsection (3) of KRS 280.190 shall forfeit fifteen dollars ($15.00) for each offense, to be recovered [before a justice of the peace] by the owner of the ferry whose rights were infringed by the violation.

(5) Any person who violates any of the provisions of subsection (4) of KRS 280.190 shall for each offense be fined not less than sixteen dollars ($16.00) nor more than twenty-five dollars ($25.00).

(6) Any person who violates any of the provisions of subsection (3) of KRS 280.250 or any of the provisions of KRS 280.260 shall, for the first offense, forfeit twenty-five dollars ($25.00) to the person aggrieved, and shall, for every subsequent offense, forfeit one hundred dollars ($100) to the person aggrieved, but the person aggrieved shall not recover the forfeiture after a prosecution has been instituted under

subsection (7) of this section. The forfeiture may be recovered by the person aggrieved by ordinary action in any court having jurisdiction to render judgment for the sum claimed to be forfeited, and the judgment may be enforced by execution against the property or against the person, at the election of the plaintiff.

(7) Any person who violates any of the provisions of subsection (3) of KRS 280.250 or any of the provisions of KRS 280.260 shall be liable to a fine of fifty dollars ($50.00) for the first offense and one hundred dollars ($100) for each subsequent offense, but no conviction shall be had under this subsection in any case where the person aggrieved has sued for and recovered the forfeiture prescribed in subsection (6) of this section.

(8) Any person who violates any of the provisions of KRS 280.270 shall be fined twenty dollars ($20.00) for each day that the violation continues.

(9) Any person who violates any of the provisions of KRS 280.280 shall be fined not less than five dollars ($5.00) nor more than ten dollars ($10.00) for each day that the violation continues.

(10) Any person who violates any of the provisions of KRS 280.320 or 280.330 shall be fined not less than five dollars ($5.00) nor more than fifty dollars ($50.00) for each offense.

Section 267. KRS 287.560 is amended to read as follows:

(1) If it appears upon examination that any bank or trust company is insolvent or that its capital has become impaired, and has been permitted to remain impaired beyond the period allowed by law, the department of banking and securities shall immediately take charge of the bank or trust company and all of its property and effects.

(2) If an examiner finds that any bank or trust company is pursuing a dangerous and unsafe policy, the examiner shall call the directors and officers of such institution together and advise them fully of the nature of such objectionable practices, and warn them against a repetition thereof, and shall make a full report to the department of banking and securities of the practices warned against, and the advice given by him and thereupon the commissioner of banking and securities, shall, in person or by written notice to each director, require a cessation of such objectionable practices or policy. If his directions are not complied with, he may place an examiner in charge of such bank, or he may adopt such other policy as he deems best to bring the institution back to a safe condition.

(3) The officers, directors, or stockholders of any bank or trust company may execute to the commissioner of banking and securities a bond with security approved by him, to secure the creditors of such bank or trust company, and upon the execution of such bond the commissioner of banking and securities shall leave with or restore the custody and management of the bank or trust company to the officers and directors thereof. If the commissioner of banking and securities deems it necessary, he may cause a petition to be filed in the circuit court of the county where such bank or trust company is located, or apply to such court [or to the judge thereof when the court is not in session], for the appointment of a receiver of such bank or trust company, and thereupon such court [or judge] shall set a date for the hearing of the application for the appointment of a receiver, not later than twenty (20) days from the date such motion is made. Notice of the hearing shall be served upon the bank or trust company. Upon such hearing the parties may be heard by affidavits or upon oral examination in court or before the judge and thereupon the judge shall hear and determine the question of the appointment of the receiver. If the court determines that such action or proposed action of the commissioner of bank and securities was justified, the court shall appoint a receiver, and shall fix the amount of the bond to be given by him.

(4) If any bank or trust company or officer thereof wilfully refuses after demand by the commissioner of banking and securities to comply with any of the provisions of this chapter, the commissioner of banking and securities may take charge of its property and assets as provided in this section.

Section 268. KRS 287.600 is amended to read as follows:

(1) Whenever the commissioner, in person, or by deputy or by an examiner, takes charge of any bank or trust company he shall, within thirty (30) days file in the office of the circuit clerk of the county in which the institution is located, a detailed statement showing the assets and liabilities of the institution, and thereafter [upon the first day of the term of each succeeding session of the circuit court of such county, and] every sixty (60) days [in counties having circuit courts of continuous sessions], he shall file a report of his actions in the administration of such institution since his last report. Any person may, by petition addressed to the circuit court, have any act of the commissioner reviewed by the court, in the same manner as though such person were a receiver appointed by the court.

(2) The commissioner shall cause notice to be given by publication pursuant to KRS chapter 424, calling on all persons who have claims against the insolvent institution to present their claims to the commissioner, and to make legal proof thereof, at a place and within a time not more than six (6) months after the date of publication, to be therein specified. He shall mail a copy of such notice to all persons whose names appear as creditors upon the books of the institution.

(3) If the commissioner doubts the justice and validity of any claim, he may reject the claim and serve written notice of such rejection upon the claimant, either by mail or personally. An affidavit of the service of such notice shall be prima facie evidence thereof, and shall be filed with the commissioner. An action upon a claim so rejected must be brought within six (6) months after such notice.

(4) Claims presented after the notification of the time fixed in the notice to creditors, shall be entitled to share ratably in the distribution to the extent of the assets in the hands of the commissioner, equitably applicable thereto.

Section 269. KRS 304.2-350 is amended to read as follows:

(1) If any person asks to be excused from attending or testifying or from producing any books, papers, records, contracts, documents, or other evidence in connection with any examination, hearing, or investigation being conducted by the commissioner, his deputy or examiner, or in any proceeding or action before any court [or magistrate] upon a charge of violation of this code, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed to give such testimony or produce such evidence, he must, if so directed by the commissioner and the attorney general, nonetheless comply with such direction; but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have so testified or produced evidence, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation, or proceeding; except, however, that no such person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in such testimony, and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation, or proceeding concerning such perjury.

(2) Any such individual may execute, acknowledge and file in the department a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement, and thereupon the testimony of such individual or such evidence in relation to such transaction, matter or thing may be received or produced before any judge, [or justice,] court, tribunal, [magistrate,] grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privileges on account of any testimony he may so give or evidence so produced.

Section 270. KRS 304.34-010 is amended to read as follows:

The following words when used in this subtitle shall have meaning respectively ascribed to them in this section:

(1) "Bail bondsman" shall mean any person, partnership or corporation engaged for profit in the business of furnishing bail, making bonds or entering into undertakings, as surety, for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment and/or death, before any of the courts of this state, [including city courts,] and/or securing the payment of fines imposed and of costs assessed by such courts upon final disposition thereof, and the business of a bail bondsman shall be limited to the acts, transactions and undertakings enumerated above and to no other. The masculine gender, whenever used herein, shall apply to all persons, firms, partnerships and corporations affected by KRS 304.34-010 to 304.34-140; and the term "bail bondsman" or "bondsman" whenever used herein.

(2) "Commissioner" shall mean the commissioner of the department of insurance.

Section 271. KRS 304.34-080 is amended to read as follows:

(1) No bail bondsman shall:

(a) Pay a fee or rebate or give or promise anything of value to a jailer, policeman, police officer, committing *officer* [magistrate], or any other person who has power to arrest or hold in custody, or to any public official or public employe in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond, or to secure delay or other advantage, except this shall not prohibit public reward paid for the return of a fugitive;

(b) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of an action on a bond;

(c) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his behalf;

(d) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he is surety;

(e) Accept anything of value from the principal except the premium, provided that the bondsman shall be permitted to accept collateral security which shall be returned upon payment of the premium on the bond or their indemnity which shall be returned upon either final termination of liability on the bond or the posting of other accepted collateral. Such collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond;

(f) Contribute any money or other thing of value or obligation therefor, to support or defeat a candidate for election to an office the duties of which are such that the holder thereof can exert power or influence upon the day-to-day conduct of the bail bond business; or

(g) Accept anything of value for suggesting or advising the employment of any particular attorney to represent the principal.

(2) Law enforcement, adjudication and prosecution officials, and their employes, attorneys at law officials authorized to admit to bail, state officers, and county and city executive officers, shall not be bail bondsman and shall not directly or indirectly receive any benefits from the execution of any bail bond.

(3) A bail bondsman shall not sign or countersign in blank any bond. No bondsman shall give a power of attorney to, or otherwise authorize, anyone to countersign his name to bonds, unless the person so authorized is also a licensed bondsman directly employed by the bondsman giving such power of attorney.

Section 272. KRS 313.360 is amended to read as follows:

(1) The Kentucky state board of dentistry may maintain an action in equity to enjoin the practice of or attempt to practice dentistry without a license in violation of KRS 313.020.

(2) In case of a violation of any injunction granted under this section, the court [, or a judge in vacation,] may summarily try and punish the offender; and the court's [or judge's] discretion concerning the degree of punishment shall not be subject to the provisions of KRS 432.260. The proceedings shall be commenced by filing with the clerk of the court an affidavit, setting out the alleged facts constituting the violation, upon which the court [or judge] shall cause an order of arrest to issue. The trial may be had upon affidavit, but either party may at any stage of the proceedings demand the production and oral examination of the witnesses.

Section 273. KRS 329.060 is amended to read as follows:

Each nonresident applicant for a trainee's license or examiner's license or a renewal license shall file an irrevocable consent that actions against the applicant may be filed in any appropriate court of any county [or municipality] of this Commonwealth in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process in any action may be served on the applicant by leaving two (2) copies thereof with the commissioner of the department. Such consent shall stipulate and agree that such service of process shall be valid and binding for all purposes. The commissioner shall send forthwith one (1) copy of the process to the applicant by registered or certified mail at the address shown on the records of the department.

Section 274. KRS 329.120 is amended to read as follows:

Any circuit court [, either in term time or vacation,] may, upon application of the commissioner or of the applicant or licensee against whom proceedings upon KRS 329.100 are pending, enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books and records in connection with any hearing in any proceedings under KRS 329.100.

Section 275. KRS 341.450 is amended to read as follows:

(1) Except as provided in KRS 341.460, within twenty (20) days after the date of the decision of the commission, any party aggrieved thereby may, after exhausting his remedies before the commission, secure judicial review thereof by filing a complaint against the commission in the circuit court of the county in which the claimant was last employed by a subject employer whose reserve account is affected by such claims. Any other party to the proceeding before the commission shall be made a defendant in such action. The complaint shall state fully the grounds upon which review is sought, assign all errors relied on, and shall be verified by the plaintiff or his attorney. The plaintiff shall furnish copies thereof for each defendant to the commission, which shall deliver one (1) copy to each defendant.

(2) Summons shall issue upon the complaint directing the commission to file answer within twenty (20) days after service thereof. Such summons shall be served upon a member of the commission, or upon such person as the commission designates, and such service shall be deemed complete service upon all members of the commission. The commission may be represented by any qualified attorney designated by the commission for that purpose or, at the request of the commission, by the attorney general. With its answer, the commission shall certify and file as an exhibit with the court all documents and papers, and a transcript of all testimony taken in the matter, and orders made therein, together with its findings of fact and decision therein. If consented to by the plaintiff and the adverse party, an abstract of any portion of the record may be certified by the commission in lieu of certifying such portion of the record in full. The commission may certify to the court questions of law involved in any decision by it.

(3) Such actions, and the questions so certified, shall be heard by the court in a summary manner upon the record certified by the commission. The court on its own motion or on the motion of an interested party shall assign a date certain for the review [, irrespective of the regular term of court]. The clerk of the court shall notify the attorneys of record, the date assigned for review at least ten (10) days in advance thereof. The court shall enter judgment, affirming, modifying, or setting aside the order and the decision appealed from or

determining the question of law certified to it by the commission, and may in advance of judgment, remand the case to the commission for further proceedings in accordance with the direction of the court.

(4) An appeal may be taken from the decision of the circuit court to the Court of Appeals, in the same manner, but not inconsistent with the provisions of this chapter, as is provided in equity cases.

(5) It shall not be necessary, in any judicial proceeding under this section or KRS 341.460, to have entered exceptions to the rulings of the commission, and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the commission shall enter an order in accordance with such determination. A petition for judicial review shall not act as a supersedeas or stay unless the commission shall so order.

Section 276. KRS 342.290 is amended to read as follows:

(1) [Where an amount sufficient under KRS 21.060 to authorize an appeal to the Court of Appeals is involved,] The judgment of the circuit court shall be subject to appeal to the Court of Appeals. The scope of review by the Court of Appeals shall include all matters subject to review by the circuit court and also errors of law arising in the circuit court and upon appeal made reviewable by the Rules of Civil Procedure where not in conflict with this chapter.

(2) The procedure as to appeal to the Court of Appeals shall be the same as in civil actions, so far as it is applicable to and not in conflict with this chapter. [, except as follows:

(a) The appellant shall file with the clerk of the circuit court, together with proof or acknowledgment of service, a schedule which indicates the portions of the record to be incorporated into the transcript of the record to be used on appeal to the Court of Appeals. Should the appellee or his counsel desire additional portions of the record incorporated into the record to be filed in the Court of Appeals, he may file with the clerk of the circuit court his schedule also within ten (10) days thereafter (unless the time is extended by order of the circuit court or the Court of Appeals), indicating the additional portions of the record desired by him. Provided, however, That if the original record of the workmen's compensation board is desired by either party on appeal to the Court of Appeals, it shall not be necessary for the clerk of the circuit court to copy said original record into the transcript, but the same shall be and become a part of the transcript and shall be forwarded to the clerk of the Court of Appeals as a part of the record upon appeal to said court. The clerk shall not be entitled to any transcript fee for such original record.

(3) The clerk of the circuit court will transmit to the Court of Appeals as the transcript of the record only those portions of the record of the lower court as are designated by the parties as above.]

(3) [(4)] The appeal shall be advanced on the Court of Appeals docket without motion or notice.

SECTION 277. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) Any person who is deaf, mute or both or who because of a hearing, speaking or other impairment has difficulty in communicating with other persons shall be entitled to the assistance and services of a qualified interpreter.

(2) A qualified interpreter shall be appointed in any proceeding before a board, commission, agency, or licensing authority of the state or any of its political subdivisions, when the principal party in interest or a witness is deaf, mute or both.

(3) No person shall be appointed as an interpreter pursuant to this section unless the appointing authority makes a preliminary determination that the interpreter is able to readily communicate with the person who is deaf, mute or both, and is able to accurately repeat and translate the statements of said person, and the appointee is agreed to by the person who is deaf, mute or both.

(4) Upon the request of the appointing authority, the Kentucky registry of interpreters for the deaf, or the Kentucky school for the deaf, shall recommend qualified interpreters to assist a person who is deaf, mute or both.

(5) The appointing authority shall set the compensation for each day the interpreter is in attendance. The compensation plus any reasonable expenses incurred by the interpreter shall be paid from the funds of the appointing authority.

Section 278. KRS 345.100 is amended to read as follows:

(1) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.

(2) An agreement between the public employer and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this chapter and signed by the chief executive officer of the political subdivision or his representative. No publication thereof shall be required to make it effective. The procedure for the making of an agreement between a political subdivision and a labor organization provided by this chapter shall be the exclusive method of making a valid agreement for fire fighters represented by a labor organization.

(3) Suits for violation of agreements between a public employer and a labor organization representing fire fighters may be brought by the parties to such agreement in the circuit court of the county of the employer or in cases where the state is the employer in the Franklin Circuit Court.

Section 279. KRS 352.110 is amended to read as follows:

(1) No operator, superintendent or mine foreman of any mine opened after June 16, 1972, shall permit persons to work therein unless there are to every seam of coal or clay worked in the mine at least two separate outlets, separated by natural strata of not less than one hundred fifty feet in breadth if the mine is worked by shaft or slope, and separated by natural strata of not less than fifty feet in breadth if the mine is worked by drift, by which outlets distinct means of ingress and egress are readily available to persons employed in the mine, but it shall not be necessary for the two outlets to belong to the same mine. This subsection does not apply to the openings of a new entry that is being worked for the purpose of making connection between the two outlets so long as not more than twenty persons are employed at one time in making the connection or driving the second opening, or to any mine in which the second opening has been rendered unavailable by reason of final robbing or removal of pillars so long as not more than twenty persons are employed therein at one time, and the workings are no farther than five hundred feet from the bottom of the shaft or slope or from the drift opening.

(2) Where punch mining is done, the width of pillars between openings shall be subject to the approval of the mine inspector and the commissioner.

(3) If any mine has but one means of ingress or egress for persons employed therein, and the owner does not own suitable ground for another opening, the owner may select appropriate adjacent ground for that purpose and have it condemned *pursuant to the Eminent Domain Act of Kentucky* [, by proceedings similar to those allowed for securing a private passway, in the county court of the county where the mine is situated].

Section 280. KRS 352.430 is amended to read as follows:

(1) The operator or superintendent of every mine shall furnish the mine inspector proper facilities for entering the mine and making examinations or obtaining information.

(2) If any inspector discovers that any mine does not conform to the provisions of KRS Chapters 351 and 352 in respect to appliances for the safety of employes, or that by reason of any defect or practice not specifically covered by these chapters in or about the mine the lives or health of persons employed therein are endangered, he shall immediately notify the operator or superintendent thereof orally and in writing, stating the particulars in which he considers the mine to be defective or dangerous, and if he deems it necessary for the immediate protection of the lives and health of the persons employed in the mine he shall withdraw the men from the mine. The operator or superintendent shall have the right to appeal to the commissioner from the closing of the mine.

(3) The owner or operator of any mine so closed may by petition apply to the circuit court of the county where the mine is located [, or to the judge thereof in vacation,] for an order directing the mine to be reopened, and the court [or judge] shall immediately hear and determine the matters arising upon the petition. If, upon full hearing thereof, the court [or judge] finds that the mine is in a reasonably safe condition, the prayer of the petition shall be granted.

(4) Notice of the hearing shall be given to the mine inspector and the commissioner at least three days before the hearing, and in all such hearings the attorney-general, the Commonwealth's attorney or the county attorney of the judicial circuit or county in which the mine is situated shall appear for the state and defend the action.

Section 281. KRS 352.500 is amended to read as follows:

(1) Each owner, tenant or occupant of land on which a mine is opened and worked, or his superintendent, shall permit any person interested in or having title to any land adjoining the mined property to have ingress and egress with surveyors and assistants to explore and survey the mine at his own expense once a month for the purpose of ascertaining whether or not KRS 352.490 has been violated.

(2) If the right granted in subsection (1) is refused, complaint may be made before the *district court* [county judge] of the county in which the mine is located, and the *court* [judge] shall issue a summons to the owner, tenant, occupant or superintendent to answer the complaint. On the return of the summons executed, and proof that the complainant has right of entry and has been refused without sufficient cause, the *court* [judge] shall designate an early and convenient time for the entry to be made, and issue an order commanding the sheriff of the county to attend and prevent obstructions and impediments to the entry, exploration and survey. The cost of summons and the fee of the sheriff shall be paid by the person whose refusal occasioned the complaint, unless the *court* [judge] dismisses the complaint, in which case the party making the complaint shall pay the cost and sheriff's fee. Either party may appeal as in other actions.

Section 282. KRS 353.230 is amended to read as follows:

(1) Upon the execution of such a consolidation agreement, the trustee shall file with the clerk of the circuit court in the county in which the land covered by the lease to be consolidated hereunder, or the greater portion thereof, lies, a petition for an order approving such consolidation agreement setting forth a copy of the consolidation agreement and a statement of facts constituting the grounds relied upon to secure the approval of such agreement, and shall submit with the petition the affidavits of not less than three (3) disinterested owners of real estate in the county wherein the proceedings hereunder are brought, as to whether such agreement will be advantageous or beneficial to the beneficiaries for whom such trustee is acting, which affidavits shall be filed and preserved as records of the circuit court.

(2) No agreement permitted by KRS 353.210 to 353.230 shall be valid or effective until the judge of said court appoints a guardian ad litem to represent the beneficiaries for whom such trustee is acting and whose interests are sought to be consolidated hereunder. The guardian ad litem shall file an answer and the affidavits of at least three (3) witnesses, proving the advantages or disadvantages of such agreement, and shall make such recommendation to the judge relating to the agreement as he believes to be most beneficial to the persons on whose behalf he is acting. He shall receive for his services a reasonable compensation, to be allowed by the judge and taxed as costs.

(3) The judge shall [, either in term time or in vacation,] proceed in a summary manner to approve or disapprove the consolidation agreement, and if he approves it he shall indorse his approval thereon. The order of the judge approving such agreement [, whether made in term time or in vacation,] shall be entered on the civil order book of the circuit clerk's office of the county in which the proceedings hereunder are brought.

Section 283. KRS 353.260 is amended to read as follows:

(1) Upon the execution of such a consolidation agreement, the guardian shall file with the clerk of the circuit court in the county in which the land covered by the lease to be consolidated hereunder, or the greater portion thereof, lies, a petition for an order approving such consolidation agreement setting forth a copy of the consolidation agreement and a statement of facts constituting the grounds relied upon to secure the approval of such agreement, and shall submit with the petition the affidavits of not less than three (3) disinterested owners of real estate in the county wherein the proceedings hereunder are brought, as to whether such agreement will be advantageous or beneficial to the minor or minors for whom such guardian is acting, which affidavits shall be filed and preserved as records of the circuit court.

(2) No agreement permitted by KRS 353.240 to 353.260 shall be valid or effective until the judge of said court appoints a guardian ad litem to represent the minor or minors whose interests are sought to be consolidated hereunder. The guardian ad litem shall file an answer and the affidavits of at least three (3) witnesses, proving the advantages or disadvantages of such agreement, and shall make such recommendation to the judge relating to the agreement as he believes to be most beneficial to the persons on whose behalf he is acting. He shall receive for his services a reasonable compensation, to be allowed by the judge and taxed as costs.

(3) The judge shall [, either in term time or in vacation,] proceed in a summary manner to approve or disapprove the consolidation agreement, and if he approves it he shall indorse his approval thereon. The order of the judge approving such agreement [, whether made in term time or in vacation,] shall be entered on the civil order book of the circuit clerk's office of the county in which the proceedings hereunder are brought.

Section 284. KRS 353.290 is amended to read as follows:

(1) Upon the execution of such a consolidation agreement, the committee shall file with the clerk of the circuit court in the county in which the land covered by the lease to be consolidated hereunder, or the greater portion thereof, lies, a petition for an order approving such consolidation agreement setting forth a copy of the consolidation agreement and a statement of facts constituting the grounds relied upon to secure the approval of such agreement, and shall submit with the petition the affidavits of not less than three (3) disinterested owners of real estate in the county wherein the proceedings hereunder are brought, as to whether such agreement will be advantageous or beneficial to the person or persons of unsound mind for whom such committee is acting, which affidavits shall be filed and preserved as records of the circuit court.

(2) No agreement permitted by KRS 353.270 to 353.290 shall be valid or effective until the judge of said court appoints a guardian ad litem to represent the person or persons of unsound mind whose interests are sought to be consolidated hereunder. The guardian ad litem shall file an answer and the affidavits of at least three (3) witnesses, proving the advantages or disadvantages of such agreement, and shall make such recommendation to the judge relating to the agreement as he believes to be most beneficial to the persons on whose behalf he is acting. He shall receive for his services a reasonable compensation, to be allowed by the judge and taxed as costs.

(3) The judge shall [, either in term time or in vacation,] proceed in a summary manner to approve or disapprove the consolidation agreement, and if he approves it he shall indorse his approval thereon. The order of the judge approving such agreement [, whether made in term time or in vacation,] shall be entered on the

civil order book of the circuit clerk's office of the county in which the proceedings hereunder are brought.

Section 285. KRS 353.690 is amended to read as follows:

(1) The department shall have the power to summon witnesses, to administer oaths, and to require the production of pertinent records, books, and documents for examination at any hearing or investigation conducted under KRS 353.500 to 353.720.

(2) Upon failure or refusal on the part of any person to comply with a subpoena issued under this section, or upon the refusal of a witness to testify as to any matter regarding which he may be interrogated and which is pertinent to the hearing or investigation, any court of record in the Commonwealth upon the application of the commissioner [may issue an attachment for the person and compel him to comply with the subpoena, and to attend before the department, produce records, books and documents for examination, and to give his testimony. The court] shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify.

Section 286. KRS 365.435 is amended to read as follows:

Every clerk to whom application is made, shall indorse upon the application the date of its filing, shall preserve the same as a record of his office, and shall make an abstract of the facts set forth in the application in a book kept for that purpose, properly indexed, containing the name of the person asking such license, the nature of the proposed sale, the place where the sale is to be conducted, its duration, the inventory of the goods to be sold and a general statement as to where the same came from and shall make in the book a notation as to the issuance or refusal of the license applied for together with the date of the same. The clerk shall indorse on the application the date the license is granted or refused, and the application and abstract shall be prima face evidence of all statements therein contained. If the clerk of the county court refuses to issue the license, the applicant may *apply* [appeal] to the county court for a hearing. The clerk shall notify the county attorney who shall appear in opposition to the issuance of the license.

Section 287. KRS 376.110 is amended to read as follows:

(1) An action to enforce a lien provided for in KRS 376.010 shall be by equitable proceedings, and conducted as other proceedings in equity in similar cases except as otherwise provided. The petition shall allege the facts necessary to secure a lien, and shall describe the property charged and the interest the plaintiff seeks to subject. As many of the lien-holders as wish to do so may unite in the action as plaintiffs, and those who are not plaintiffs shall be made defendants. The debtor or his personal representative or heirs or devisees, and all other persons having liens on or interests in the property sought to be subjected, shall be made defendants. The clerk of the court in which the petition is filed shall issue the proper process against the resident defenders, enter warning orders against the nonresidents and appoint an attorney to defend for them, and appoint guardians for the infants. After the expiration of ten days from the filing of the petition, the clerk of the court in which the petition was filed shall draw up an order referring the action to the master commissioner of the court and file it with the petition, deliver to the commissioner the pleadings and papers of the action, and make a memorandum thereof in his minute book.

(2) If for any cause it should be improper to refer the case to the master commissioner, he is then directed to select some suitable person to act as commissioner for the occasion and refer the case to him; but before such person shall proceed to act, he shall, before the clerk, take an oath, and execute bond, with sufficient surety, similar in all respects to the bond required to be executed by the master commissioner, which bond shall be preserved by the clerk, and reported to the court [at its next ensuing term].

Section 288. KRS 376.350 is amended to read as follows:

[(1)] Any person in whose favor a lien created by KRS 376.340 exists may, before *the district* [a justice of the peace or a judge of the quarterly] court of the county where the debt was created, by himself, agent or attorney, make affidavit of the amount due him and in arrear for services to the person receiving them and describing, as nearly as possible, the baggage or other personal property owned and brought in by the guest. The *court* [justice or judge] shall then issue a warrant directed to the sheriff or any constable or town marshal of the county, authorizing him to levy upon and seize the property described in the affidavit for the amount due, with interest and costs. If the property has been removed with the consent of the landlord, the lien shall not continue longer than ten days from and after the removal.

[(2) The proceedings under a warrant shall, in all respects, be the same as in the case of a distress warrant, and none of the property shall be exempt from seizure or sale.]

Section 289. KRS 376.410 is amended to read as follows:

[(1)] Any person in whose favor a lien provided for in KRS 376.400 exists may, before *the district* [a justice of the peace or a judge of the quarterly] court of the county where the cattle were fed or grazed, by himself or agent, make affidavit of the amount due him and in arrear for keeping and caring for the cattle, and describing as nearly as possible the cattle so kept by him. The *court* [justice or judge] shall then issue a warrant, directed to the sheriff or any constable or town marshal of the county, authorizing him to levy upon and seize the cattle for the amount due, with interest and costs. If the cattle are removed with the consent and from the custody of the livery stable keeper or the person feeding or grazing them, the lien shall not continue longer than ten days from and after the removal, nor shall the lien in case of such removal be valid against a bona fide purchaser without notice at any time after the removal. The warrant may be issued to a county other than that in which the cattle were fed or grazed, and the lien may also be enforced by action as in the case of other liens.

[(2) The proceedings under a warrant shall, in all respects, be the same as in the case of a distress warrant, and none of the cattle fed or grazed shall be exempt from seizure or sale.]

Section 290. KRS 378.080 is amended to read as follows:

(1) The court may at any time pending the action provided for in KRS 378.070, and upon the terms it deems proper compel the transferee to surrender to a receiver of the court all the property in his possession or under his control, and it may make such orders respecting the property as it may make concerning attached property. If it is decided that the debtor's act operates as an assignment for the benefit of his creditors as provided in KRS 378.060, the court shall compel the debtor to surrender to the receiver all property in his possession or under his control, except the property exempt from execution, and to disclose the amount of his debts, the name and residence of each of his creditors, all offsets or defenses to any claim against him or any other matter which is deemed proper. The court shall also compel every person, except the assignee for the benefit of creditors of the debtor, who has, after the institution of the action provided for in KRS 378.070, acquired any property from the debtor, to surrender that property to the receiver.

(2) The court [or judge, or the presiding judge of a county court,] may grant against the debtor, in addition to the order of arrest, a writ of ne exeat, when it appears by affidavit that the writ is necessary to secure the surrender or disclosures provided for in this section.

Section 291. KRS 379.030 is amended to read as follows:

(1) The assignee shall, when the deed of assignment is lodged for record or within seven days thereafter, execute a bond with good security, approved by the *district court* [county judge], conditioned upon the faithful discharge of his duties as assignee. The bond shall be recorded in the *court* [county] clerk's office. If the person named in the deed as assignee fails for any cause within the time named to qualify or to execute a sufficient bond, the *district court* [county judge] shall, by order entered of record, appoint an assignee who shall, within five days, give bond with good surety, and who shall thereupon be vested with the same rights, powers and responsibilities with respect to the estate assigned as if named in the deed.

(2) The court may at any time, upon its own motion or upon motion of any party in interest and after ten days' notice to the assignee, require him to execute a new bond or give additional security if the original bond is not sufficient. If the assignee fails or refuses to execute a new bond or give additional security within the time allowed by the court, the court shall, by an order entered of record, remove the assignee and appoint another in his stead. The newly appointed assignee shall execute bond in the same manner as the original assignee and proceed to settle up the estate, and to this end he may institute any necessary proceedings against the former assignee and his sureties.

Section 292. KRS 379.040 is amended to read as follows:

(1) An assignee may resign his trust upon settling his accounts, and the settlement shall be confirmed and the assignee discharged from liability *sixty (60) days* [at the second regular term of the court] after the settlement has been filed, if no exceptions are filed thereto. If exceptions are filed, they shall be heard and determined by the court.

(2) If an assignee moves his residence out of the state, or becomes insane or otherwise incapable of discharging the trust, the court may, upon ten days' notice to him, his attorney or committee, remove the assignee and appoint another in his stead. If creditors representing one-half in number and two-thirds of the amount of debts against the estate so request in writing, the court shall remove the assignee and appoint another in his stead.

Section 293. KRS 379.050 is amended to read as follows:

(1) The assignee shall, except as provided in KRS 379.170, be subject to the orders and supervision of the *district* [county] court [or the judge thereof in vacation], and may be required at any time upon reasonable notice to file any report ordered. He may, when the court so directs, be examined in open court touching the condition of the estate and its management.

(2) The assignee shall file in the clerk's office of the *district* [county] court, as soon as possible, and within fifteen days after his qualification unless the court allows a longer time, an inventory verified by him of all the property that came into his hands. If any property comes to the possession of the assignee after filing

the inventory, he shall, in like manner, file an inventory thereof.

Section 294. KRS 379.060 is amended to read as follows:

(1) All orders and proceedings in the *district* [county] court, except as otherwise provided, shall be ex parte and upon motion, and in no case need a petition be filed. A notice or summons shall not be issued to any person unless ordered by the court or requested by a person in interest. If an exception is filed to a claim or report, the party affected thereby shall have ten days' notice of the time of hearing.

(2) The court may, upon the request of the assignee or any creditor, require the assignor or any person indebted to him to appear in court after reasonable notice and answer questions deemed proper concerning the estate or claims against it.

Section 295. KRS 379.080 is amended to read as follows:

(1) If the assignor reserves any of his property as exempt, the court shall appoint three competent and disinterested housekeepers, who, after being first duly sworn, shall set apart to the debtor the property exempt, and within ten days thereafter the assignee shall file a report thereon. Exceptions may be filed to the report by any person in interest but not later than *sixty (60) days* [the second regular county court term] after the report has been filed. The court shall hear and dispose of any exceptions and if none are filed it shall confirm the report.

(2) If land is exempt, an order shall be entered directing the assignee to employ, if necessary, a competent surveyor to lay off by metes and bounds the homestead exemption as set apart by the appraisers. The court may, with the consent of the assignor, and if it appears best for the interest of the creditors, or if the land is not divisible without impairing its value, order the property sold and the value of the homestead, not exceeding one thousand dollars, paid to the assignor.

Section 296. KRS 379.090 is amended to read as follows:

(1) Personal property conveyed by the deed of assignment shall be sold by the assignee at private or public sale as the court may direct, and the assignee may pass title as fully as the assignor could have done at the date of the assignment.

(2) Real property, when sold at public sale, shall be sold in the same manner and upon the same terms as real property sold at decretal sale. However, the purchaser may pay and the assignee accept cash in payment of the purchase price, and the court may make any order it deems proper concerning the advertisement of the sale. The assignee may convey and pass all the right and title which the grantor in the deed of assignment had at its date.

(3) The report of sale shall be filed by the assignee within ten days after the sale, and if no exceptions are filed thereto *within sixty (60) days after it has been filed*, the report shall be confirmed [at the second regular term after it has been filed]. If exceptions are filed, they shall be heard by the court and disposed of.

Section 297. KRS 379.120 is amended to read as follows:

The assignee may administer oaths and examine witnesses concerning claims, and may allow or refuse to allow any claim or part thereof. He shall file in the *district* [county] court, within six (6) months after his appointment and every three (3) months thereafter until discharged, a list of all claims presented to him, together with his reasons for refusing any claim not allowed, and *sixty (60) days* [at the second regular term of court held] thereafter the report shall be confirmed unless exceptions to it are filed. Any creditor may file exceptions to the report because of the failure to allow his claim, or because of the allowance of any claim, and the court shall hear and determine the exceptions.

Section 298. KRS 379.140 is amended to read as follows:

The assignee may, when he believes it is no longer to the interest of the estate to keep the assignment open, move the *district* [county] court to discharge him from the trust and release him from all liability. He shall have notice of his application to discharge published pursuant to KRS Ch. 424. *Sixty (60) days* [At the second regular term of the county court held] after the motion is entered, the court shall, upon proof that the required notice was given, enter an order discharging the assignee from his trust and releasing him from all liability, unless objection is made. If objection is made, the court shall hear the same and make such orders as are proper.

Section 299. KRS 379.150 is amended to read as follows:

If the assignor settles or compromises with his creditors before the final discharge of the assignee or settlement of the estate, the writing showing the settlement or compromise shall be filed in the *district* [county] court and an order made discharging the assignee.

Section 300. KRS 379.160 is amended to read as follows:

An appeal may be taken from the judgment of the *district* [county] court overruling or sustaining an exception by the assignor, assignee or any party in interest, to the circuit court. [The appeal shall be taken in the same time and manner as appeals are taken from the quarterly to the circuit court. In all cases where an appeal is taken to the circuit court, the judgment of the circuit court shall direct the county court what order to enter in the case appealed, and the order so directed to be entered shall be made by the county court at its first regular session held thereafter. If an appeal is prosecuted from the circuit court to the Court of Appeals, the circuit court shall, in like manner, certify the judgment to the county court.]

Section 301. KRS 379.170 is amended to read as follows:

(1) The provisions of KRS 379.010 to 379.160 shall not prevent an action to settle an estate by the assignee, or by any creditor or creditors representing one-fourth of the liabilities, from being brought in the circuit court. When an action involving a settlement of the estate is brought in the circuit court of the county in which the assignment was made, the jurisdiction of the *district* [county] court shall cease, and all papers relating to the estate filed in the *district* [county] court shall be *transferred* [transmitted] by the clerk [thereof to the clerk] of the circuit court *to the files of the circuit court* [and filed by him in the action]. The circuit court [, in addition to its power and authority as a chancery court,] may exercise any power conferred on the *district* [county] court by KRS 379.010 to 379.160 in administering and settling the assigned estate.

(2) The assignee may sell the personal and real property belonging to the assigned estate, at public or private sale, and convey and pass all the right and title to the same which the grantor had in the deed of assignment at its date. The assignee shall, within ten days after the sale, report the sale to the circuit court in which the suit for settlement of the estate is pending. The report shall thereupon be laid over ten days for exceptions, and if no exceptions are filed within that time the report shall thereupon be confirmed. If exceptions are filed, they shall be heard and determined by the court.

Section 302. KRS 381.135 is amended to read as follows:

(1) A person desiring a division of land held jointly with others, or an allotment of dower or curtesy, may file in the circuit court [or county court] of the county in which the land or the greater part thereof lies a petition containing a description of the land, a statement of the names of those having an interest in it, and the amount of such interest, with a prayer for the division or allotment; and, thereupon, all persons interested in the property who have not united in the petition shall be summoned to answer *not more than twenty (20) days after service of the summons* [on the first day of the next term of the court]. The written evidences of the title to the land, or copies thereof, if there be any, must be filed with the petition.

(2) The statutory guardian of an infant, or committee of an incompetent person may file or unite in the petition, in the names of, and in conjunction with such infant, or incompetent person; and, if the petition be against an infant, or incompetent person the guardian, or committee may appear and defend for them; if they fail to do so, the court shall appoint a discreet person for that purpose.

(3) Upon such a petition by all interested in the property; or upon *the expiration of twenty (20) days after* the service of a summons on all who have an interest in the property and have not united in the petition, [ten days before the commencement of the term,] the court may order the division, or allotment of dower or curtesy, according to the rights of the parties.

(4) The court shall appoint three competent persons to make the partition, or allotment of dower or curtesy, or both, having a due regard to the rights of all parties interested. Before proceeding to act, the commissioners shall take an oath to discharge their duty impartially.

(5) The order of appointment shall fix a time and place for the meeting of the commissioners; who shall meet accordingly; but, if prevented from meeting at the time and place so fixed, they may meet as soon thereafter as convenient, and may adjourn to such other time and place as they may agree upon, until their duty shall be performed.

(6) They shall survey and allot to the parties their respective interests in the land, and make report thereof to the court; which may either confirm, set aside or remand the report to the commissioners for correction.

(7) If the report be confirmed, a commissioner to be appointed for the purpose shall, by deed, convey to each party the land allotted to him.

(8) [Said report and deed shall be recorded in the clerk's office of the county court, in proper books to be kept for that purpose; and,] If the report be confirmed by the circuit court, it and the deed shall be certified by the clerk of that court to the clerk of the county court, for record.

(9) Two of the commissioners may act, if one refuse or fail to do so.

(10) A party summoned may, by answer, controvert the allegations of the petition or contest the rights claimed therein; and, thereupon, the case shall be tried and decided as an ordinary action, but without the intervention of a jury.

[(11) If the action be pending in the county court when such answer is filed, it may be removed, on motion of either party, to the circuit court for trial; and the clerk shall, thereupon, deliver the papers pertaining to the case to the clerk of the circuit court.]

[(12) An appeal may be taken to the Court of Appeals from a final judgment, whether rendered by the circuit court or county court.]

(11) [(13)] The costs of the action shall be apportioned among the parties in the ratio of their interests, except that the costs arising from a contest of fact or law shall be adjudged against the unsuccessful party.

(12) [(14)] No verification of the pleadings shall be required.

(13) [(15)] The commissioners shall be paid a reasonable compensation, to be taxed as costs.

(14) [(16)] This section does not affect the jurisdiction of courts of equity to make partition or allot dower or curtesy.

Section 303. KRS 381.470 is amended to read as follows:

At the request of either party, the court in which the judgment or decree of eviction is rendered shall [direct the clerk of the court to issue a venire facias to the sheriff of the county in which the land is situated, commanding him to summon a justice of the peace of his county, and to] impanel a jury of twelve discreet and impartial freeholders, not kin to either party, to meet upon the premises recovered, on a day named in the *summons* [writ].

Section 304. KRS 381.480 is amended to read as follows:

The *clerk of the court* [justice of the peace] shall administer to the jurors, after they have been selected, the following oath: "Each of you do solemnly swear, that you will impartially, and to the best of your skill and judgment, discharge the duties required of you in the present case, by the provisions of the law concerning occupying claimants."

Section 305. KRS 381.490 is amended to read as follows:

The *court* [justice] shall swear the witnesses, preside over the inquest and trial, decide all matters of law, preserve order, and may adjourn from day to day until the jury has completed the inquest. In case the jury first summoned fails to attend, or, after being sworn, fails to agree and render their verdict, the *court shall* [justice of the peace shall direct the sheriff to] summon another jury, on a day to be named in his mandate in writing. The *court* [justice] shall make out and return to the clerk's office from which the writ issued, a complete record of the proceedings before him, together with the original writ, the verdict, and assessment of the jury, certified by him. Either party shall have the right of challenge to the jurors allowed in civil cases, and any deficiency in the jury may be supplied by summoning others.

Section 306. KRS 381.530 is amended to read as follows:

The clerk shall make out two copies of the inquest, and deliver one to each party on request. The party demanding the inquest shall pay to the sheriff, for his services, four dollars [and to the justice and each of the jurors rendering a verdict, one dollar per day], which shall be taxed in the bill of costs against the adverse party, if the court gives judgment for any amount against him.

Section 307. KRS 381.540 is amended to read as follows:

The inquest, when returned, shall be docketed as other causes [, and stand for trial at the first term]. The court shall, after deducting the lesser from the greater assessments, give judgment for the remainder in favor of the occupant or successful claimant. The rent, from the day of the inquest until the time fixed for issuing the writ of possession, shall be computed by the court at the same rate per year as that fixed by the jury for the previous years.

Section 308. KRS 381.635 is amended to read as follows:

Whenever it is necessary for the owner of land to have access over, under or through the land of one or more other persons, for the purpose of operating a coal mine or other mine, and marketing the products therefrom, and access over the surface of the land of such other persons, for the purpose, would be impracticable, but there exist shafts, slopes, passageways or entries below the surface of the land of such other persons, suitable for the purpose and which could be used for the purpose without undue or unreasonable inconvenience to the owner thereof, or there exist coal seams or other strata below the surface of the land of such other persons, through which shafts, slopes, passageways or entries may be made without unreasonable inconvenience to the owner thereof, the right to use, or to make and use, such shafts, slopes, passageways or entries may be condemned under the procedure set forth in *the Eminent Domain Act of Kentucky* [KRS 381.580 to 381.630], subject to the exceptions prescribed in KRS 381.636. The right of use so condemned shall include the right to install tracks, power lines, lights, ventilating equipment, and other things necessary for satisfactory use. And provided further that in any case where the rights or uses herein provided for are sought to be condemned through any land already devoted to mining purposes, if such proposed rights or uses in any wise interfere with or disrupt any approved mining methods, plans or practices, as established or projected as a part of a general plan of mining to conform to or comply with any safety provisions, rules or regulations under the existing mining laws of the State of Kentucky or of the United States of America as now in effect or hereafter enacted, such rights or uses shall be conclusively presumed to be undue and unreasonable inconvenience to the owner within the meaning of this section and KRS 381.636.

Section 309. KRS 381.636 is amended to read as follows:

All of the provisions of *the Eminent Domain Act of Kentucky* [KRS 381.580 to 381.630] shall be applicable for the purposes of KRS 381.635 and this section, except as follows:

(1) The commissioners shall be required to find, in addition to their other findings, that access over the surface of the land would be impracticable, and that the use or making and use of the shafts, slopes, passageways or entries would not cause undue or unreasonable inconvenience to the owner thereof.

(2) Compensation shall be determined in accordance with what will constitute just compensation to the owner of the shafts, slopes, passageways or entries for the use thereof, and not on the basis of an actual taking of the land. Where the right to make a shaft, slope, passageway or entry is condemned, the condemnor shall be required to pay compensation for the value of any merchantable coal or other mineral that may be removed from the land in making the shaft, slope, passageway or entry, and for any incidental damages arising therefrom.

(3) At the time of examining the report of the commissioners [, as prescribed in KRS 381.600], the court shall enter an order granting the applicant the immediate use of the right of access sought to be condemned, notwithstanding the filing of exceptions by the owners, if:

(a) The report of the commissioners favors condemnation; and

(b) The person seeking condemnation has paid into court the amount of compensation fixed by the commissioners, and has filed with the court a bond, with sureties approved by the court, conditioned upon his paying to the owner or owners the difference between the sum paid into court and that which may thereafter be finally determined, in the proceeding, to be the value of the right of access, and further conditioned that, if it is finally determined in the proceeding that the person is not entitled to condemn the right of access, he will pay to the owner or owners damages for his use pending such final determination.

Section 310. KRS 382.205 is amended to read as follows:

(1) Any county where indexes to the records of deeds, mortgages, wills, marriages, or other public records have been or may hereafter be prepared by the Work Projects Administration or other appropriate agency of the United States Government, or by order of the fiscal court of any county, such indexes or any of them may be adopted as the official general cross indexes of such records in the manner provided by this section in addition to each individual book index. Upon the completion of any such indexing project by an appropriate Federal Agency or by a person or persons acting under the authority of a fiscal court, or at any time thereafter, any citizen of the county may petition the county court to have said index adopted as the official index. Upon the filing of the petition, the court may forthwith by appropriate order designate a licensed attorney practicing in the county who with the county attorney and county court clerk shall comprise a commission to examine the index proposed to be adopted and ascertain whether the index is a complete and accurate index of the records to which it pertains. The commission shall thereupon make such examination as may be necessary to ascertain to its satisfaction whether such index is complete and accurate. Upon completion of such examination, the commission shall make a written report to the court of the results thereof and of its recommendations, which report shall lie over for exceptions until the second regular term of the county court thereafter held. Notice of the filing of said report shall be given by the clerk by publication pursuant to KRS Ch. 424. Exceptions may be filed by any interested person, and if filed shall be heard and determined as in other cases. If no exceptions are filed thereto, or upon the exceptions (if any) the court shall hear such proof as may be thought proper respecting the report filed by the clerk and the exceptions, and shall [judicially] determine whether the said index is complete and accurate, and if it is determined that the index is complete and accurate, an order shall be entered adopting said index; provided, that if from such report or such proof it appears that corrections or additions should be made to such index in order to render it accurate and complete, the order may direct that such corrections or additions shall be made by the clerk, and in that event it shall be the duty of the clerk to make such corrections or additions forthwith, and upon his report that he has done so an order shall be entered adopting the index as so corrected. If adopted, said index shall thereupon become the official general cross index of the records to which it pertains, and all persons shall be entitled to rely thereon to the same extent as if the index had been prepared by the clerk of the county court. Upon the adoption of any such index, it shall be the duty of the clerk to bring same up to date from the point at which same ceased to be made by the agency which prepared it, and to continue and maintain said index thereafter in lieu of the indexing system theretofore used, except he will continue to keep the regular individual book index, and to index all instruments lodged for record in conformity therewith. The indexes theretofore

used shall not be destroyed after the adoption of the new indexes, but shall be safely kept by the clerk as other records are kept, subject to inspection by any person interested therein.

(2) Expenses incurred by the county clerk under the provisions of this section shall be paid by the fiscal court of the county.

Section 311. KRS 383.030 is amended to read as follows:

(1) If any person is liable for rent due not later than one year thereafter, whether payable in money or some other thing, the person to whom the rent is owing or his agent or attorney may file an affidavit *in the district court if the amount involved is less than $1,500 and otherwise in the circuit* [before a justice of the peace, police judge or a judge of the quarterly] court of the county in which the tenement lies, stating that there are reasonable grounds for belief, and that he does believe, that unless an attachment is issued he will lose his rent. *The court* [That officer] shall then issue an attachment for the rent against the personal property of the person liable for the rent, to any county the person suing out the attachment may desire. But the attachment shall not issue until the plaintiff has given bond, with good surety, to indemnify the defendant should it appear that the attachment has been wrongfully obtained.

(2) Attachments for rent issued [for a sum of fifty dollars or less, exclusive of interest and costs,] shall be returned before the *court* [officer] issuing the attachment. [Those for a sum exceeding fifty dollars and not exceeding two hundred shall, at the option of the party attaching, be returned before either the quarterly or circuit court of the county whence it issued; and, if over two hundred dollars, to the circuit court; and in either case] The proceedings thereon shall be the same as on other attachments according to KRS Ch. 425 and the Rules of Civil Procedure.

(3) The defendant may deny the tenancy or his liability to pay rent, as stated in the affidavit. He may repossess himself of the property by executing bond in a manner similar to that prescribed in KRS Ch. 425, subject to similar proceedings if forfeited, as is prescribed by KRS Ch. 425 and the Rules of Civil Procedure on such a bond.

Section 312. KRS 383.210 is amended to read as follows:

(1) Upon complaint by a person aggrieved by a forcible entry or detainer to *the district court* [a justice of the peace or county judge] of the county in which the land or tenement, or a principal part thereof, lies, *a warrant* [he] shall issue [his warrant] to the sheriff or any constable, in substance as follows: "The Commonwealth of Kentucky to the sheriff (or any constable) of .... county: Whereas, A B hath made complaint [to me, J S, a justice of the peace (or county judge) for said county,] that C D and E F did, on the .... day of ...., forcibly enter into (or forcibly detain from the said A B) one house and field on the waters of ...., in the county aforesaid (or other general description of the lands or tenements), which were in the peaceable possession of A B (or which the said C D and E F, tenants of the said A B, now hold against him): You are, therefore, commanded to summon a good and lawful jury of your county to meet on the premises, or at a place convenient thereto, on the .... day of ...., to inquire into the forcible entry (or forcible detainer) aforesaid; and give to the said C D and E F at least three days' notice of the time and place of the meeting of the jury; and have then there this writ. Witness, etc."

(2) In the trial of writs of forcible entry, forcible detainer or forcible entry and detainer, if neither party, in person or by agent or attorney, demand a jury, the trial thereof shall be by the *court* [judge or justice presiding; and in such event the judge or justice shall try all questions arising, whether of law or of fact]. No such writ shall hereafter direct the summoning of a jury, and the sheriff or other officer to whose hands such writ may come to do execution thereof shall not summon a jury in such proceedings, unless he be by either party notified in writing that a jury is demanded. At the calling of the cause for trial either party may demand a jury.

[(3) The right to traverse the finding of the judge or justice shall be the same as if a verdict had been rendered by a jury.]

Section 313. KRS 383.220 is amended to read as follows:

At the time for holding the inquisition, the officer shall return the warrant to *the court* [any justice who may attend, or to the county judge, if in attendance,] with an indorsement stating when and upon whom it was executed and the place designated by the officer for holding the inquisition, together with a panel of the jury; whereupon, the *clerk* [justice or judge], whether the defendant is present or not, shall administer an oath to the jurors in substance as follows: "You, and each of you, shall well and truly inquire into and return whether or not the defendant (or defendants) is (or are) guilty of the forcible entry (or detainer) complained of in the warrant in this cause: so help you God."

Section 314. KRS 383.230 is amended to read as follows:

The *court* [judge or any justice of the peace] may issue subpoenas for witnesses at the request of either party, and their attendance and testifying may be coerced by the *court* [justice or judge] who presides at the inquest.

Section 315. KRS 383.235 is amended to read as follows:

The jurors, after hearing the evidence, shall, by their inquest, say whether the defendants, or either of them, be guilty or not guilty of the forcible entry or detainer complained of; and shall return their inquest, signed by one of their body, to the *court* [justice of the peace or judge who presides]. If the jury do not agree, it may be discharged, and another be ordered to be summoned to meet, either immediately or at some future day to be then and there fixed and indorsed on the warrant; and this proceeding shall be continued until a jury agree.

Section 316. KRS 383.240 is amended to read as follows:

Upon the return of the inquest the *court* [judge or justice] shall enter a judgment according to the inquisition, either for the plaintiff, in substance, that he have restitution of the premises aforesaid, and recover of the defendants his costs in this behalf expended; or for the defendants, in substance, that they recover of the plaintiff their costs in this behalf expended; or for the plaintiff against some of the defendants, and for the other defendants against the plaintiff, if some be found guilty and others not guilty.

Section 317. KRS 383.245 is amended to read as follows:

If the party against whom the inquisition is found fail to file a*n appeal* [traverse] of the inquisition with the *court* [judge or justice who presided], on or before the *seventh* [third] day after the finding of the inquest, the *court* [judge or justice] shall, on request, issue [his] execution for the costs; and, if the inquisition be in favor of the plaintiff, *it* [he] shall also issue *a* [his] warrant of restitution in substance as follows: "…. County. To the sheriff (or any constable) of …. county, Whereas, C D and E F have [, by an inquisition taken before me, J. P, a justice of the peace for said county,] been found guilty of a forcible entry in (or detainer of) one house and field, lying on the waters of …., in the county aforesaid (or other general description of the possessions), to the injury of A B: You are, therefore, in the name of the Commonwealth of Kentucky, commanded that, with the power of the county if necessary, you put the said A B in the possession of said premises; and make return within …. days [to me], how you have executed this warrant. Given under my hand this …. day of …. [, J.P."]

......................*District Court Judge"*

Section 318. KRS 383.250 is amended to read as follows:

The *clerk of the court* [judge or justice of the peace] shall carefully preserve all papers, records and proceedings, relating to the cause [, unless he transmit them to the clerk as hereinafter directed]; and shall deliver, to any person requiring it, a transcript thereof [, such person paying him therefor two cents for every twenty words in such transcript].

Section 319. KRS 383.255 is amended to read as follows:

(1) If either party conceive himself aggrieved by the *judgment* [finding] of the *court* [jury], he may file *an appeal* [a traverse thereof with the judge or justice,] within *seven (7)* [three (3)] days next after the finding aforesaid, *and shall deposit with the circuit court clerk the amount of rent owing and due from the onset of the forcible entry and detainer proceedings as well as the amount of all future rents, as it becomes owing and due in each succeeding month during the pendency of the appeal. The rental monies collected in this account shall be distributed by court order at the conclusion of an appeal.*

(2) Upon the aggrieved party perfecting his appeal by the payment of monies into court pursuant to subsection (1) of this section the court [in substance as follows: "A B against C D, on a writ of forcible entry (or detainer). The plaintiff (or the defendant) says that the inquisition returned in this cause is not true; wherefore, he prays that the proceedings thereon may be stayed until the same can be tried according to law. A B;" and shall also, within the same time, before said judge or justice, give bond with sufficient surety, to be approved by the judge or justice, to his adversary, in substance as follows: "A B v. C D, on a writ of forcible entry (or detainer). Whereas, upon a writ of forcible entry (or detainer) in favor of A B against C D, tried before …., a justice of the peace of …. county, a verdict was rendered for the said A B, on the …. day of …., which the said C D has traversed; the said C D and E F, his surety, covenant to pay to the said A B the costs of said proceeding and all damages caused to him by said traverse, if not prosecuted with effect." Whereupon, the judge or justice] shall stay all further proceedings on the inquisition, and return the whole of the papers and proceedings, or a fair transcript thereof, to the office of the circuit court of said county, within ten days thereafter.

Section 320. KRS 383.260 is amended to read as follows:

Upon this bond, if the *appellant* [traverser] fail to prosecute his *appeal* [traverse with effect], he and his surety shall be liable for the damages for withholding the possession which the *appellee* [traversee] may be entitled to recover against the *appellant* [traverser], during the pendency of the *appeal* [traverse], either in the circuit court or Court of Appeals, as well as the reasonable expenses of the *appellee* [traversee] in defending the *appeal* [traverse].

Section 321. KRS 383.275 is amended to read as follows:

The court before whom such cause may be pending [, or any judge thereof in vacation,] may restrain waste or destruction of the premises, and may enforce its order by fine and imprisonment or either.

Section 322. KRS 383.540 is amended to read as follows:

(1) The *district* [quarterly] courts of this state may exercise jurisdiction over any landlord or tenant with respect to any conduct in this state governed by KRS 383.505 to 383.715 or with respect to any claim arising from a transaction subject to KRS 383.505 to 383.715. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord or tenant may be acquired in a civil action or proceeding instituted in the court by the service of process in the manner provided by this section.

(2) If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by KRS 303.505 to 383.715, or engages in a transaction subject to KRS 383.505 to 383.715, he may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the Secretary of State. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the Secretary of State, but service upon him is not effective unless the plaintiff or petitioner forthwith mails a copy of the process and pleading by registered or certified mail to the defendant or respondent at his last reasonably ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of the court on or before the return day of the process, if any, or within any further time the court allows.

Section 323. KRS 383.580 is amended to read as follows:

(1) All landlords of residential property requiring security deposits prior to occupancy shall be required to deposit all tenants' security deposits in an account used only for that purpose, in any bank or other lending institution subject to regulation by the Commonwealth of Kentucky or any agency of the U.S. Government. Prospective tenants shall be informed of the location of the separate account and the account number.

(2) Prior to tendering any consideration deemed to be a security deposit, the prospective tenant shall be presented with a comprehensive listing of any then-existing damage to the unit which would be the basis for a charge against the security deposit and the estimated dollar cost of repairing such damage. The Tenant shall have the right to inspect the premises to ascertain the accuracy of such listing prior to taking occupancy. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing, but shall not be construed to be conclusive to latent defects. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.

(3) At the termination of occupancy, the landlord shall inspect the premises and compile a comprehensive listing of any damage to the unit which is the basis for any charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall then have the right to inspect the premises to ascertain the accuracy of such listing. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.

(4) No landlord shall be entitled to retain any portion of a security deposit if the security deposit was not deposited in a separate account as required by subsection (1) of this section and if the initial and final damage listings required by subsections (2) and (3) of this section are not provided.

(5) A tenant who disputes the accuracy of the final damage listing given pursuant to subsection (3) of this section may bring an action in *district* [circuit or quarterly] court [of competent jurisdiction of this state] . Tenant's claim shall be limited to those items from which the tenant specifically dissented in accordance with the provisions of paragraph (3) of this section, or except as otherwise provided, and if the tenant shall fail to sign the listing or specifically dissent in accordance with paragraph (3) of this section, the tenant shall not be entitled to recover any damages under this section.

(6) In the event a tenant leaves not paying his last month's rent and does not demand a return of his deposit, the landlord may, after thirty (30) days, remove the deposit from the account and apply any such excess to the debt owing.

(7) In the event the tenant leaves not owing rent and having any refund due, the landlord shall send notification to the last known or reasonably determinable address, of the amount of any refund due the tenant.

In the event the landlord shall not have received a response from the tenant within sixty (60) days from the sending of such notification, the landlord may remove the deposit from the account and retain it free from any claim of the tenant or any person claiming in his behalf.

Section 324. KRS 384.050 is amended to read as follows:

Whenever a person (hereinafter referred to as an absentee) serving in or with the armed forces of the United States, or serving as a merchant seaman, has been reported or listed as missing, or missing in action, or interned in a neutral country, or beleaguered, besieged, or captured by an enemy, and such person has an interest in any form of property in this State or is a legal resident of this State and has not provided an adequate power of attorney authorizing another to act in his behalf in regard to such property or interests, the *district* [county] court of the county of such absentee's legal domicile or of the county where such property is situated, upon petition alleging the foregoing facts and showing the necessity for providing care of the property of such absentee, made by any person who would have an interest in the property of the absentee were such absentee deceased, or on the court's own motion, after notice to, or on receipt of proper waivers from, the heirs and next of kin of the absentee as provided by law for the administration of an estate, and upon good cause being shown, may, after finding the facts to be as aforesaid, appoint a conservator to take charge of the absentee's estate, under the supervision and subject to the further orders of the court.

Section 325. KRS 386.020 is amended to read as follows:

(1) Any fiduciary holding funds for loan or investment may invest them in:

(a) Bonds or other interest-bearing obligations of the federal government;

(b) Bonds, state warrants and other interest-bearing obligations of this state;

(c) Obligations issued separately or collectively by or for federal land banks, federal intermediate credit banks and banks for cooperatives under the Act of Congress known as the Farm Credit Act of 1971, 85 Stat. 583, 12 U.S.C. 2001 and amendments thereto;

(d) Notes and bonds secured by mortgage or trust deed insured by the Federal Housing Administrator, obligations issued or insured by the Federal Housing Administrator, and securities issued by National Mortgage Associations;

(e) Obligations representing loans and advances of credit that are eligible for credit insurance by the Federal Housing Administrator, and the fiduciary may obtain such insurance;

(f) Loans secured by real property or leasehold, that the Federal Housing Administrator insures or makes a commitment to insure, and the fiduciary may obtain such insurance;

(g) Real estate mortgage notes, bonds and other interest-bearing or dividend-paying securities (including securities of any open-end or closed-end management type investment company or investment trust registered under the Federal Investment Company Act of 1940) which would be regarded by prudent businessmen as a safe investment;

(h) Real estate, after obtaining the approval of the *district* [county] court for such investment;

(i) Life insurance, endowment and annuity contracts issued by legal reserve companies authorized to do business in this state, after obtaining the approval of the *district* [county] court for such investment. Said fiduciary may select any optional settlement provided in a policy maturing by death or as an endowment; and

(j) Notes, other interest-bearing obligations, and purchases of participations in such instruments, that are guaranteed in whole or in part by the United States of America or by any agency or instrumentality thereof.

(2) Fiduciaries holding funds for loan or investment may make loans with the securities named in subsection (1) as collateral.

(3) The fiduciary shall account for all interest or profit received.

Section 326. KRS 386.160 is amended to read as follows:

Any fiduciary of whom a bond, undertaking or other obligation is required may agree with his surety for the deposit and safekeeping of any moneys and assets for which he and his surety may be held responsible, with a bank, safe deposit or trust company, authorized by law to do business in this state as such, or with another depository in this state approved by the court [or a judge thereof], if the depository is otherwise proper. The agreement and the deposit shall be made so as to prevent the withdrawal of the deposit or any part thereof without the written consent of the surety, or an order of court [or a judge thereof], made on such notice to the surety as the court [or judge] may direct. However, the agreement shall not in any manner release from or change the liability of the principal or surety as established by the terms of the bond.

Section 327. KRS 386.185 is amended to read as follows:

(1) Whenever a trustee holds and controls an amount, exclusive of income, of $2,000 or less, it may petition the *district* [county] court having jurisdiction of the trust, for an order authorizing it to distribute the amount held, plus income available, less fees chargeable, to the appropriate beneficiary or beneficiaries, legal

representatives thereof, or other appropriate persons or institutions responsible for the object of the trust, who shall be under a duty to use the funds for the purposes of the trust. Upon receipt of said petition by the *district* [county] court, and accompanying affidavit and/or oral testimony, the court shall order the amount distributed.

(2) When an order to distribute the amount petitioned is granted and entered into the Court's records, no bond shall be required of the recipient of said distribution from the trustee.

(3) A release of the trustee shall be executed by the recipient upon distribution of the amount held, declaring said fiduciary not liable thereafter. The trustee shall not be required to look into the application of the amount so distributed.

Section 328. KRS 386.650 is amended to read as follows:

As used in this chapter, "court" means the appropriate [county court,] district court [,] or circuit court which under the laws of Kentucky has jurisdiction over the subject matter of the particular proceeding.

Section 329. KRS 387.020 is amended to read as follows:

[(1) The several] *District* [county] courts shall have jurisdiction for the appointment and removal of guardians to minors, and the settlement of their accounts. The *district* [county] court of the county in which the minor resides at the time of appointment shall have the jurisdiction; but if the appointment is made by the will of the father or mother of the minor, then the jurisdiction shall be in the *district* [county] court of the county in which the will was probated; and if the minor be a nonresident of the State of Kentucky and has real estate or an interest in real estate in the State of Kentucky, the jurisdiction shall be in the *district* [county] court of that county in which some portion of such real estate may lie; if the minor be a nonresident of the State of Kentucky and has no real estate or interest in real estate in the State of Kentucky, but has personal property in the State of Kentucky, then the jurisdiction shall be in the *district* [county] court of that county in which such personal property is located; if the minor be a nonresident of the State of Kentucky and has real estate or personal property or an interest in real estate or personal property in more than one county in the State of Kentucky, then the jurisdiction shall be in the *district* [county] court of either or any of such counties in which the real estate or personal property is located which first takes jurisdiction in proceedings for the appointment of a guardian, and in the appointing of a guardian for a minor who is a nonresident as herein provided for the guardianship shall be only for that property or interest in property within the State of Kentucky. In the event of a minor who resides in the State of Kentucky but has no property within the State of Kentucky, either real or personal, but it is necessary that a guardian be appointed to give consent to marriage, or enlistment in the Army or Navy, or in any other case where the law requires the consent of a guardian, then and in that event the *district* [county] court of the county in which the minor has resided not less than one year shall have the jurisdiction and authority to appoint a guardian for the purpose of giving such consent.

[(2) A fee of five dollars shall be allowed the court for the appointment or removal of a guardian as provided in this section and in KRS 387.050 and 387.090.]

Section 330. KRS 387.050 is amended to read as follows:

If the minor is fourteen years of age or older, he may, in the presence of the Court, or by a writing signed in the presence of the Judge, after privy examination, nominate his own guardian, or if such minor be absent from the county, he may after privy examination, in the presence of the *district* judge of the county [or probate court] where he is, or if he be in the military or naval services of the United States, after privy examination, in the presence of a superior commanding officer, by a writing signed in the presence of such Judge or superior officer nominate his own guardian provided that such Judge or such commanding officer certify to the *district* judge of the county [court] having jurisdiction to appoint a guardian for such ward that said writing was signed by such minor and after privy examination in the presence of such Judge or officer; but if the person so nominated is not approved by the Court, or if the minor, after summons, fails to nominate a suitable person, or if the minor resides out of the State, or if the testimentary guardian fails for three months to qualify, the Court may appoint a guardian of its own selection.

Section 331. KRS 387.070 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, no guardian can act until he has been appointed by the proper *district* [county] court, and given bond to the state with good surety approved by the court to faithfully discharge the trust of guardian. The bond shall be carefully kept by the [county] clerk *of the district court* in a book to be provided for that purpose.

(2) A testamentary guardian for nurture and education shall be exempt from the requirements of subsection (1) of this section.

(3) If the will of the father or mother so directs, the other parent being dead, no security shall be required from the guardian, unless from change of circumstances in the guardian since making the will or

other cause the court deems it imprudent to dispense therewith.

(4) No master or other commissioner whose duty it is to settle the accounts of a guardian, nor judge or clerk of a court, or practicing attorney, shall be accepted as surety on the bond of a guardian.

(5) If the court fails to take a bond, or accepts persons as surety as do not satisfy it of their sufficiency, the judge so in default and his sureties shall be jointly and severally liable to the ward for any damage he may sustain thereby.

Section 332. KRS 387.080 is amended to read as follows:

(1) Anyone damaged by the act or omission of a guardian as such may sue upon his bond. With the assent of the *district* [county or circuit] court, anyone may sue thereon as next friend of the ward before he has attained full age.

(2) If a guardian commits waste of the estate of his ward, he and his sureties shall be liable on his bond to the ward for damages, at the expiration of his guardianship.

Section 333. KRS 387.100 is amended to read as follows:

(1) A guardian shall, within sixty days after his appointment, return to the court [, or to its clerk in vacation,] a true and perfect inventory of the real and personal property of the ward, signed by him and verified by his affidavit. If other property afterward comes to his knowledge, he shall return a supplementary inventory thereof within sixty days from the time of obtaining such knowledge. For failure to make return within the time provided, the court may remove the guardian.

(2) The inventory shall describe the real property and where situated, with its probable value, and the probable value of its rent. It shall include a list of all personal property, including debts due the ward, with its probable value.

Section 334. KRS 387.120 is amended to read as follows:

(1) No disbursements shall be allowed the guardian for the support, maintenance or education of the ward beyond the income of the estate, unless authorized by the deed or will under which the estate is derived or unless it is best for the ward that the principal of his personal estate be applied for his support, maintenance or education, and the court upon settlement of the accounts deems such application to have been judicious and properly made. But neither the ward nor his real property shall be liable for the latter disbursement.

(2) Where the guardian is in doubt as to his right to use the principal of the personal property for the ward's support, maintenance or education, he may apply to the *district* [county or circuit] court for permission to do so by filing a verified petition stating the reasons for the application. The court may grant the order ex parte, and it shall be prima facie protection to the guardian in the settlement of his accounts. If the court is of the opinion that the guardian had no reasonable ground to doubt his right to use the principal of the ward's personal property, or that he had no reasonable ground to believe such use was proper, the court shall give judgment for costs against the guardian personally and order that amount not allowed as a credit in the settlement of his accounts.

Section 335. KRS 387.160 is amended to read as follows:

(1) No lease permitted by KRS 387.150, shall be valid or effective until the judge of the circuit court for the county in which the land to be leased or the greater portion thereof lies appoints a guardian ad litem to represent the minor. The guardian ad litem shall file an answer and the affidavits of at least three witnesses proving the advantages or disadvantages to the ward, and shall make such recommendation of the lease to the judge as he believes to be most beneficial to the ward. He shall receive for his services a reasonable compensation, allowed by the judge and taxed as costs and paid by the lessee.

(2) The judge shall, before approving the lease, require the guardian of the minor to file, with the clerk of his court, a petition setting forth a statement of facts constituting the grounds on which he relies to secure the approval of the lease. The judge shall proceed in a summary manner, and require to be submitted with the petition and lease the affidavits of not less than three disinterested owners of real estate in the county where the land or the greater portion thereof lies, as to whether the lease will be advantageous or beneficial to the ward, which affidavits shall be filed and preserved as records of the circuit court.

(3) The judge shall [, either in term time or in vacation,] approve the lease and endorse his approval thereon, which endorsement shall be recorded with the lease. The order of the judge approving the lease [, whether made in term time or in vacation,] shall be entered on the civil order book of the circuit clerk's office of the county in which the land to be leased or the greater portion thereof lies.

(4) When the lease is made, the guardian shall execute a bond to the ward, approved by the judge, with at least two solvent sureties, conditioned for the faithful application of the proceeds coming into his hands by virtue of the lease. The judge may at any time thereafter require from the guardian a new bond, with other or additional security, if he deems it necessary.

Section 336. KRS 387.170 is amended to read as follows:

(1) All amounts accruing under a lease permitted by KRS 387.150 shall be treated as income of the estate of the ward, and shall be held and accounted for as such by the guardian.

(2) Where dower or curtesy is outstanding in the mineral rights, but has not been assigned, one-third of the income accruing under the lease shall be adjudged to the surviving spouse as his or her curtesy or dower, as provided by KRS 392.050. The remaining income shall be received by the guardian and held by him or disbursed for the ward's proper maintenance and education, pursuant to KRS 387.060.

(3) The guardian or his successor as such shall from time to time make settlements to the *district* [county] court as provided by law.

(4) The leasehold estate, upon the death of the ward, without having disposed of the same in the manner authorized by law, shall descend to the real representatives of the ward for distribution among the decedent's heirs at law.

(5) Upon the minor becoming of age, the guardian shall make a final and complete settlement of all amounts received under the lease, and account for the same as herein and by law provided, and shall thereupon be discharged from further duty or accountability. Thereafter the rights and obligations of the former ward and the lessee shall be the same as if the lease had been executed originally to the lessee by a person over twenty-one years of age and free from any disability.

Section 337. KRS 387.190 is amended to read as follows:

(1) Where there is no guardian of a nonresident minor in this state, his guardian appointed and qualified according to the law of the place where the minor resides may collect, receive and remove to the place of residence any personal property of the minor located in this state. Upon application by a petition in a summary way, the *district* [county] court of the county having jurisdiction to appoint a guardian may authorize a foreign guardian to sue for, recover, and remove any personal property of the minor, or otherwise to act as a guardian appointed in this state.

(2) Where there is a guardian of the nonresident minor in this state, he may, upon petition by the foreign guardian in a summary way, either to the *district* [county] court or the circuit court of the county, and ten days' notice, be compelled to pay over to the foreign guardian for removal the personal estate of the minor and the rents and profits of his real property. However, neither court shall grant either of the petitions unless it is satisfied, by documentary evidence, that the foreign guardian has, where he qualified, given bond with surety to account for all the estate of the minor that might come to his hands; nor where there is no resident guardian, if there is any next of kin of the minor in this state within the knowledge or information of the court, until the next of kin has been summoned; nor unless the court is satisfied that neither the minor nor any of his creditors in this state will be prejudiced by the order.

Section 338. KRS 387.210 is amended to read as follows:

(1) The *district* [county] courts shall have exclusive jurisdiction of the appointment and accounting of committees. Application shall be filed and notice given in the same manner required for guardians. There shall be filed with said application a statement from the clerk of the circuit court that the incompetent has been adjudged as such. Appointment shall be made, bond executed, and accounting required in the same manner as guardians and actions upon such bond may be maintained by any person aggrieved by a breach thereof.

(2) An appeal may be taken to the circuit court from the judgment of a *district* [county] court appointing or removing, or failing to appoint or remove, a committee by any person interested in the person or estate of the person of unsound mind, who shall execute a bond for costs as in other appeal cases.

Section 339. KRS 387.220 is amended to read as follows:

(1) A committee shall not be appointed for a person of unsound mind who is a resident of this state, unless he has been found to be such by the judgment of the circuit [or county] court of the county of his residence upon the inquest of a jury, as provided by law, or, if a nonresident, by the judgment of a court of competent jurisdiction in the county of his residence.

(2) In all inquests relating to persons alleged to be of unsound mind, the court shall cause an oath to be administered to the jury in such form as to ascertain by the verdict whether the person, by reason of unsound mind, is incompetent to manage his estate, and also what estate he owns in possession, reversion or remainder, and the value thereof.

(3) The court prior to the inquest may appoint a visitor to interview the person alleged to be of unsound mind. The court may also cause the visitor to interview the person seeking appointment and visit the present place of abode of the person alleged to be of unsound mind and the place it is proposed that he will be detained or reside if the requested appointment is made. Upon such appointment the visitor shall submit a report in writing to the court.

Section 340. KRS 387.280 is amended to read as follows:

Whenever a person under disability, having no guardian or committee, is entitled to receive a sum not exceeding $5,000, exclusive of interest, in any action wherein real estate has been sold or in the settlement of any estate or from any other source, the court in which the action is pending, or, if the sum does not derive from such action, the *district* [county] court, may order the sum to be paid to the persons having custody of such ward. Before entering the order, the court shall be satisfied by affidavit or oral testimony that the ward is in the custody of the person to whom it is proposed to pay the money, and the latter, upon withdrawal of the money, shall be under obligation as trustee to expend it, for the support, maintenance or education of the ward. When the order is made no bond shall be required of the person having custody of the ward and the purchaser of the real property may pay the share into court, and no lien shall remain on the property therefor and the money may be withdrawn by the person mentioned in the order without his giving bond. A release executed by the person to whom the court has ordered the sum paid shall have the same effect as a release by a duly appointed guardian or committee.

Section 341. KRS 387.281 is amended to read as follows:

The *district* [circuit and county] courts shall have jurisdiction within their respective counties, without impanelling a jury, to appoint a special committee to receive funds from any state, federal, city or county agency, which disburses funds for the maintenance and support of indigent persons, for any person who is a resident of their respective counties, or for any person who is confined in any of the charitable institutions in their respective counties, except that no such special committee shall be appointed under this section to receive funds disbursed by the United States through the Veterans Administration, or the successor to this agency.

Section 342. KRS 387.285 is amended to read as follows:

The total compensation of the special committee shall not exceed three dollars per year. The cost of settlement shall not exceed the sum of one dollar for recording it [, and one dollar to the county judge or examiner for examining and approving it].

Section 343. KRS 387.290 is amended to read as follows:

(1) The *district* [county] court of the county from which the convict was sent to the penitentiary, or of the county of his residence if he had one in this state, may, upon the application of anyone interested, appoint a suitable curator of the estate of any person over the age of twenty-one years confined in the penitentiary.

(2) If the convict has a spouse the *district* [county] court shall appoint the spouse curator if the spouse can give satisfactory security, and if not, then the person the spouse selects in person or by written direction to the court.

(3) The curator shall execute a bond similar to that required of curators in a case of contest concerning a will. He shall be clothed with like powers, have like privileges, discharge like duties, and be liable to like responsibilities as are provided in the case of the curator of an estate pending a contest concerning a will, except that he shall, out of the effects held by him for the support of the family and the education of the minor children of the convict. He shall expend in these respects the sum authorized by the *district* [county] court, and he shall account with the convict when he is discharged from the penitentiary.

Section 344. KRS 387.300 is amended to read as follows:

(1) No person shall sue as next friend unless he reside in this state and be free from disability, nor unless he file his own affidavit showing his right to sue as next friend according to the provisions of this chapter.

(2) A guardian, curator, committee or next friend who brings or prosecutes an action for a person who is under disability is liable for the costs which accrue during his conduct of the action, unless he be allowed to sue in forma pauperis *or* [,] by an order of the court [, or by an order of the judge thereof during vacation].

Section 345. KRS 387.305 is amended to read as follows:

(1) No appointment of a guardian ad litem shall be made until the defendant is summoned, or until a person is summoned for him, as is authorized by law; nor until an affidavit of the plaintiff, or of his attorney, be filed in court, or with the clerk, [or presented to the judge during vacation,] showing that the defendant has no guardian, curator, nor committee, residing in this state, known to the affiant.

(2) A guardian ad litem must be a regular, practicing attorney of the court; and may be appointed by the court, [or the judge thereof,] whether a guardian, curator, or committee appear for the defendant or not [; or by the clerk of the court, during vacation, if the affidavit mentioned in subsection (1) of this section be filed]. The guardian ad litem may be appointed upon the motion of the plaintiff or of any friend of the defendant; but neither the plaintiff nor his attorney shall be appointed, nor be permitted to suggest the name of the proposed guardian ad litem; and the court [or judge] may change the guardian so appointed whenever

the interest of the infant may appear to require such change.

(3) It shall be the duty of the guardian ad litem to attend properly to the preparation of the case; and in an ordinary action he may cause as many witnesses to be subpoenaed as he may think proper, subject to the control of the court; and in an equitable action he may take depositions, not, however, exceeding three, without leave of the court.

(4) The court shall allow to the guardian ad litem a reasonable fee for his services, to be paid by the plaintiff and taxed in the costs. The affidavit of such guardian, or of another person, or other competent evidence, is admissible to prove the services rendered, but not to prove their value. The court must decide concerning such value, without reference to the opinions of parties or other witnesses.

Section 346. KRS 387.320 is amended to read as follows:

(1) Whenever any person deems himself unfit by reason of advanced age or physical disability and weakness to properly and prudently manage or care for his real or personal property or manage his business with prudence and understanding, the *district* [county] court may, upon his verified petition without notice or public hearing, appoint a curator to assume charge and management of his real or personal property or business, subject to the direction of the court.

(2) The court shall take bond with good surety from the person appointed curator for the full and faithful performance of the trust confided in him.

[(3) A fee of five dollars shall be allowed the court in any proceeding for the appointment of a curator.]

Section 347. KRS 388.190 is amended to read as follows:

As used in this chapter:

(1) The term "person" includes a partnership, corporation or an association.

(2) The term "Veterans Administration" means the Veterans Administration, its predecessors or successors.

(3) The terms "estate" and "income" shall include only moneys received by the guardian or committee from the Veterans Administration, all earnings, interest and profits derived therefrom and all property acquired therewith.

(4) The term "benefits" shall mean all moneys paid or payable by the United States through the Veterans Administration.

(5) The term "Administrator" means the Administrator of Veterans Affairs or his successor.

(6) The term "ward" means a beneficiary of the Veterans Administration.

(7) The term "guardian" as used herein shall mean any person acting as a fiduciary for an incompetent person.

(8) The term "court" means the district court of the county of the beneficiary's residence.

Section 348. KRS 389.010 is amended to read as follows:

(1) The real property or any right, title or interest in real property of a person under the age of eighteen years, or of a person of unsound mind, whether such person be a resident or a nonresident of this state, may be sold under or by decree of a court of equity of the county in which the property or any part thereof is situated for any purpose deemed by the *court* [chancellor] to be necessary or proper or beneficial to such person under disability.

(2) The decree may be rendered on a petition, counterclaim or cross-petition filed by the statutory guardian of an infant, or by the committee of a person of unsound mind, or by a next friend, or by any party against a guardian or committee, if he has one residing in this state, in any kind of similar proceeding that may be maintained against a person who is not under disability.

(3) Except in actions brought under subsection (13) of this section, if the guardian or committee of a person under disability be a party to the action, then it shall not be necessary for the person under disability to be made a party personally.

(4) If the guardian or committee of a person under disability be not a party to the action, then it shall be necessary for the person under disability to be a party personally and brought before the court in the manner authorized by the Rules of Civil Procedure.

(5) Nothing contained in subsections (2), (3) and (4) of this section shall limit the purposes of sale named in subsection (1) of this section.

(6) If the suit be filed against a guardian or committee and he shall fail to appear and defend or show that no good defense can be made, the court shall appoint a guardian ad litem to do so.

(7) The pleading seeking a sale shall file the title papers, or copies thereof, under which the property is held; shall particularly describe the property and the interest therein of the person under disability; set forth fully the reasons or purposes for which it is sought to have the same sold; and the nature and extent of all liens upon the interest of the person, if any, so far as the same may be known to the petitioner.

(8) The case may be referred by order of court to the master commissioner for hearing of evidence and report on the facts and his recommendation with respect to the relief sought in the pleadings.

(9) The allegations of the pleading shall not be taken as confessed but shall be proved by competent evidence heard on deposition or orally by the *judge* [chancellor] or commissioner. A transcript thereof shall be filed as part of the record.

(10) The proceeds of any sale may be paid to the guardian or committee provided that he shall have executed in the circuit court a bond with surety to the Commonwealth for the use and benefit of the person under disability that he will faithfully discharge his trust and will account for, pay and deliver to said person all money and other property due or belonging to him when he shall reach his majority, or if he be a person of unsound mind when he shall be legally restored, or to his heirs or personal representative, or in compliance with an order of any court of competent jurisdiction. The court shall endorse its approval on said bond, which shall be recorded on the order book; provided, that if the circuit court, upon examination of a certified copy of the bond executed in the *district* [county] court of his appointment by the guardian or committee, which copy shall be filed in the circuit court, should determine, in its discretion, that said bond is adequate and sufficient, the above bond to be executed in the circuit court shall not be required. The circuit court shall enter an order in the order book that it has personally examined the certified copy of the bond executed in the *district* [county] court, and found it adequate and sufficient and that no additional bond shall be required in that circuit court. The copy of the bond shall be certified as a true and correct copy of the bond by the clerk of the [county] court in which it was executed.

(11) Subject to the above conditions, judgment may be rendered and executed in the same manner and on the same terms as judgments in similar cases where no person under disability is a party.

(12) Provided, that (a) the court may in its discretion in an ex parte or adversary proceeding authorize the guardian or committee of such person or the commissioner of the court to make said sale at public auction upon such terms and conditions as the court may order, and to convey title thereto; or (b) if the land or interest to be sold be of an appraised value of less than twenty-five hundred dollars, the court may in the judgment authorize such fiduciary to make the sale privately and convey title; subject, however, to the approval of the *court* [chancellor] before consummation.

(13) Without previous judicial proceeding or judgment the guardian of an infant or the committee of a person of unsound mind may sell privately or at public auction and convey any interest in real estate owned by a ward for such reasons and purposes and upon such terms and conditions as he shall deem best for the interest of said ward. Provided, however, that no such sale shall be consummated until same shall have been approved by the judge of the circuit court in the county where the land or a portion thereof is situated in a suit in equity filed by the guardian or committee against said infant or person of unsound mind. The petition shall set forth the reason and purposes of the sale and the terms thereof.

(14) If the person under disability be brought before the court by service of summons, a guardian ad litem shall be appointed for such person. Proof shall be taken only on notice to said guardian ad litem or, if the person under disability be constructively summoned, on notice to his warning order attorney. Proof may be taken by depositions or orally before the *judge* [chancellor] and thereafter transcribed and filed in the record of the case. The guardian ad litem or warning order attorney shall make a defense or file a report stating that after careful examination of the case he is unable to make a defense.

(15) If the *court* [chancellor] shall deem the sale advisable and the terms and price satisfactory, *it* [he] shall enter an order approving the same; provided, however, that the judgment shall not be entered until the guardian or committee shall have executed a bond with approved surety in an amount not less than the sum due, or to become due, his ward from said sale providing that he will faithfully discharge all his duties as such guardian or committee and will comply with the judgment and orders of the court, and account for, pay and deliver the proceeds of the sale or property in which it shall be invested to his ward or other person entitled thereto. The bond shall be approved by the court and recorded in the order book; provided, if the share of the infant in the proceeds does not exceed one hundred dollars, exclusive of interest, no bond shall be required of the guardian; provided further, that if the circuit court, upon examination of a certified copy of the bond executed in the county of his appointment by the guardian or committee, which copy shall be filed in the circuit court; should determine in its discretion that said bond is adequate or sufficient the above bond to be executed in the circuit court shall not be required. The circuit court shall enter an order in the order book that it has personally examined the certified copy of the bond executed in the *district* [county] court and found it adequate and sufficient and that no additional bond shall be required in that circuit court. The copy of the bond shall be certified as a true and correct copy of the bond by the clerk of the [county] court in which it was executed. This proceeding shall be tried and judgment rendered in accordance with the Rules of Civil Procedure.

(16) The court shall at all times enter such orders as will conserve and protect the rights of the person under disability.

(17) No defect or error in the proceeding shall render the judgment or sale void unless the same is of the nature and character that would render the proceeding void if all parties were sui juris.

Section 349. KRS 389.015 is amended to read as follows:

Any bond provided for in KRS 389.010 shall remain in full force and effect until the guardian or committee has filed in the *district* [county] court of the county of his appointment and qualification a settlement of his account showing payment to, or for the benefit of, his ward, of the funds secured by such bond, and until the settlement has been approved and confirmed by the *district* [county] court. Upon production to the circuit court in which the bond was executed, of a certified copy of the settlement and of the order of the *district* [county] court approving and confirming the same, the circuit court shall enter an order releasing the guardian or committee, and his sureties, from further liability under the bond.

Section 350. KRS 389.035 is amended to read as follows:

When lands are held in trust by one person for the life of another, with remainder over to a class of persons, or to any person not ascertained or to be ascertained until the death of the person upon whose life such estate for life is made to depend, or with power on the part of such person for whose life such life estate is held by the trustee, to dispose by a last will and testament, or by an instrument in the nature of a last will and testament, it shall be competent for the circuit court [s or courts] of [like jurisdiction in] the county in which such land or a part thereof is situated, in an action to which all persons having a present or vested interest in such land are parties, to direct the trustee to either sell or mortgage such land; but in all actions it must be averred and proven to the court that such sale or mortgage would be beneficial to all the parties concerned, and facts showing such benefits must be alleged and proven. Any deed or mortgage executed under authority, or in pursuance of any judgment rendered in any such action, shall be held and construed and have the same effect as if executed by every person having a vested or contingent interest in or ownership of such land, and as if executed by all persons and classes who could take under the limitations or provisions of said deed, or as devisees under the exercise of such power to devise or appoint, and as if every claimant, present or future, under such deed or power, was under no disability whatever. The proceeds of the sales authorized by this section shall be paid into court, and shall be reinvested by the court after first having, by appropriate order, provided for the payment of the costs and taxes, if any, in other property to be conveyed and held subject to the same limitations and trusts as the land sold was held. The proceeds of all mortgages of such lands as are mentioned in this section shall be paid into court, and shall be appropriated under the order of the court in the construction of permanent improvements on the land mortgaged. But before appropriating such money in the construction of such improvements, the court shall provide for the payment of all unpaid taxes on said land, and the costs of the action. The court shall require the life tenant, out of the rents, to pay the taxes and insurance on such improvements, and residue of the rents to be paid into court for disposition by the court until such mortgage debt is fully paid off; and such court may provide for semiannual reports to be made by such life tenant; and in the event of the disobedience of any order of such court by such life tenant, it shall be the duty of the court to appoint a receiver, who shall take possession of such land and hold the same as the court may direct, and collect and receive all the rents and profits of such land, and pay the same into court for such disposition thereof as the court may take.

Section 351. KRS 391.030 is amended to read as follows:

(1) Except as otherwise provided in this chapter, where any person dies intestate as to his personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration and debts, shall pass and be distributed among the same persons, and in the proportions, to whom and in which real estate is directed to descend, except as follows:

(a) The personal estate of an infant shall be distributed as if he had died after full age.

(b) An alien may be distributee as though he were a citizen.

(c) Personal property or money on hand or in bank to the amount of $3,500 shall be exempt from distribution and sale and shall be set apart by the *district* [county] court having jurisdiction over the estate on application to the surviving spouse, or, if there is no surviving spouse, to the infant children surviving.

(2) The surviving spouse of any deceased person may, at any time before the property or money is set apart by the court, procure on petition from the judge of the *district* [county] court having jurisdiction over administration of his estate, an order authorizing him to withdraw from any bank or other depository not exceeding five-hundred dollars ($500) belonging to the estate of the deceased. Upon presentation of the order, the bank or depository shall permit him to withdraw the sum and shall lodge the order, endorsing thereon the amount withdrawn, with the *circuit* clerk [of the county court], and he shall retain it in his files to be considered in connection with further proceedings in the estate and the withdrawal shall be treated as a charge against the property of the estate exempt from distribution.

(3) In the application for the setting apart of property or money under this section the surviving spouse may make his selection out of the personal property of the estate to the extent that the value of the property selected does not exceed the amount of thirty-five hundred dollars ($3,500).

Section 352. KRS 392.080 is amended to read as follows:

(1) When a husband or wife dies testate, the surviving spouse may, though under full age, release what is given to him or her by will, if any, and receive his or her share under KRS 392.020 as if no will had been made, except that in such case the share in any real estate of which the decedent or anyone for the use of the decedent was seized of an estate in fee simple at the time of death shall be only one-third of such real estate. Such relinquishment shall be made within six months after the probate, and acknowledged before and left for record with the clerk of the *county* court or his authorized deputy [,] *in the county* where probate was made, or acknowledged before a subscribing witness and proved before and left with the *county* clerk or his authorized deputy. *A copy of such relinquishment shall be filed with the clerk of the court in which probate was made.* If, within those six months, an *action contesting the will is brought* [appeal is taken from the judgment probating the will], the surviving spouse need not make such relinquishment until within six months succeeding the time when the *action* [appeal] is disposed of. Provided, however, the period for renunciation may be extended not exceeding six additional months by order entered by the *district* [county] court upon application of the surviving spouse for such extension within six months after the date of probate for such extension.

(2) Subsection (1) does not preclude the surviving spouse from receiving his or her share under KRS 392.020, in addition to any bequest or devise to him or her by will, if such is the intention of the testator, plainly expressed in the will or necessarily inferable from the will.

Section 353. KRS 392.120 is amended to read as follows:

(1) A conveyance or devise of real or personal estate, by way of jointure, may bar the surviving spouse's interest in the property and estate of the deceased spouse. If, however, the jointure is made before marriage without the surviving spouse's consent, or during the surviving spouse's infancy the surviving spouse may, within twelve months after decedent's death, waive the jointure by written relinquishment, acknowledged or proved before, and left with, the clerk of the county court, and have dower, curtesy, or share of the estate as provided by KRS 392.020. *A copy of such relinquishment shall be filed with the clerk of the court in which probate was made.* When the surviving spouse so demands and receives dower, curtesy or such share of decedent's estate, the estate conveyed or devised in lieu of dower or curtesy shall determine and revert to the heirs or representatives of the grantor or devisor.

(2) Where the surviving spouse is lawfully deprived of jointure, or any part of jointure, and not through any act of the surviving spouse's own, the surviving spouse shall have indemnity for jointure out of decedent's estate.

Section 354. KRS 394.110 is amended to read as follows:

A will may be deposited by the person making it, or anyone for him, with the *district* [county] clerk of the county of his residence for safekeeping, upon payment of a fee of one dollar to the clerk. The clerk shall receive, keep, and deliver the will according to the directions on a sealed envelope. If there are no such directions, or the party entitled does not apply, the will shall be handed to and opened by the *district* [next or some succeeding county] court, after the death of the testator, and there retained for probate.

Section 355. KRS 394.130 is amended to read as follows:

No will shall be received in evidence until it has been allowed and admitted to record by a *district* [county] court; and its probate before such court shall be conclusive, except as to the jurisdiction of the court, until superseded, reversed or annulled.

Section 356. KRS 394.140 is amended to read as follows:

Wills shall be proved before, and admitted to record by, the *district* [county] court of the testator's residence (if such residence was on a United States army post, military reservation or fort, it may be proved and admitted to record in the *district* [county] court of any county adjacent thereto); if he had no known place of residence in this state, and land is devised, then in the county where the land or part thereof lies; if no land is devised, then in the county where he died, or where his estate or part thereof is, or where there is a debt or demand owing to him.

Section 357. KRS 394.145 is amended to read as follows:

[(1)] When any will is offered for probate, the court shall require a verified application to be filed by the person offering the same. Such application shall state the residence of the testator at the time of his death and such other facts as may be necessary to establish the jurisdiction of the court, and the names, ages and post-office addresses of the testator's surviving spouse and, if required by the court, heirs at law, or such as are known. An application for probate and for appointment as executor or administrator with the will annexed may be combined in one application.

[(2) A fee of five dollars shall be allowed the court when a will is offered for probate in the county court.]

Section 358. KRS 394.160 is amended to read as follows:
Any *district* [county] court, on being informed that a person has in his custody the will of a testator, may summon him, and, by proper process, compel him to produce it.

Section 359. KRS 394.170 is amended to read as follows:
A person offering or intending to offer to a *district* [county] court a will for probate may obtain from the clerk of the court process directed to the proper officer of any county, requiring him to summon any person interested in the probate to appear [at the next term of court] and show cause why the will should not be admitted to record.

Section 360. KRS 394.220 is amended to read as follows:
A *district* [county] court may, without summoning any party, proceed to probate and admit the will to record or reject it.

Section 361. KRS 394.240 is amended to read as follows:
(1) *Any person aggrieved by the action of the district court in admitting a will to record or rejecting it may bring an original action in the circuit court of the same county to contest the action of the district court. Such action shall be brought within two (2) years after the decision of the district court. The parties may, in the same action, or in a separate action if the validity of the will is not in issue, seek construction, interpretation or reformation of a will.* [An appeal may be taken from the county court to the circuit court of the same county from every judgment admitting a will to record or rejecting it. The circuit court shall try both law and fact, unless a jury be requested. The appeal to the circuit court shall be within two (2) years after rendering the judgment of probate or rejection in the county court. The propounder of the will shall have the right to conclude the argument in the circuit court. This section shall apply only to wills offered for probate after June 16, 1972.]
(2) Upon filing [an appeal to the circuit court from an order of a county court admitting a will to record or rejecting it, and upon filing an appeal to or] an action *pursuant to subsection (1)* [in a circuit court seeking construction, interpretation or reformation of a will], the [appellant or] plaintiff shall forthwith lodge a notice of the [appeal or] action in the office of the county court clerk of the county in which the will was admitted to probate or rejected. Such notice shall state the name of the testator, the style of the [appeal or] action, the court in which the [appeal or] action has been filed, the file number assigned to the [appeal or] action by the clerk of the court in which it has been filed, the nature of the [appeal or] action, and the date on which the [appeal was filed or the] action *was* commenced. Said notice shall be signed by [appellant or] plaintiff or his attorney and no jurat shall be necessary. The county court clerk shall record and index said notice as if it were a will.

Section 362. KRS 394.250 is amended to read as follows:
An action filed in [An appeal to] the circuit court, *pursuant to KRS 394.240* [from an order of a county court, admitting a will to record or rejecting it], shall not, unless taken within twelve (12) months from the entry of the *district* [county] court's order, prevent the appointment of an administrator or executor by the *district* [county] court or the settlement, distribution, and division of the decedent's estate. The circuit court in which proceedings are pending [in appeal] may make an order restraining the further distribution and division of the estate. Should such a restraining order be made, the court may in its discretion require the *plaintiffs* [appellants] to give bond as required by the rules of civil procedure concerning injunctive relief in civil actions generally. Such an order shall not restrain administration of the estate other than as set out in the order.

Section 363. KRS 394.260 is amended to read as follows:
When the proceeding is taken to the circuit court, all necessary parties shall be brought before the court by the *plaintiff.* [appellant. Upon the demand of any party a jury shall be impaneled to try whether, or how much of, any testamentary paper produced is, or is not, the last will of the testator. If no jury is demanded, the court shall determine that question, and] The final decision given shall, subject to appeal to the Court of Appeals, be a bar to any other proceeding call the probate or rejection of the will in question. This section does not preclude a court of equity from its jurisdiction to impeach such final decision for any reason that would give it jurisdiction over any other judgment at law.

Section 364. KRS 394.295 is amended to read as follows:
The court in which a judgment has been rendered shall have power to vacate or modify it when any paper purporting to be the last will of any person has been, or may be hereafter admitted to probate, and a

later will has been discovered. A judgment on this ground, however, shall not be vacated or modified, unless proceedings to that end shall be instituted within twenty-five years after the death of the testator. If the earlier will shall have been established by judgment of the circuit court [on appeal from a judgment of the county court], the proceedings to vacate shall be instituted in the circuit court. The proceedings to vacate shall be by petition to which all persons interested in the earlier will shall be made defendants. *Otherwise,* [If no appeal shall have been taken from the judgment of the county court probating the earlier will,] the proceedings to vacate shall be instituted in *the district* [that] court. Provided, however, that a judgment on the ground herein named shall not be vacated or modified until the validity of such later will has been determined in such proceedings. When such former judgment has been vacated or modified such later will shall be admitted to probate in the manner and under the laws governing the probation of wills before the expiration of five years. The judgment establishing such later will and vacating the judgment establishing the former will shall be without prejudice to the vested rights of innocent third parties. The court in which relief is sought for the reasons herein set out, may enter such orders as may be necessary to protect the rights of the parties during the pendency of the proceedings. [In all such proceedings either party shall have the right of appeal to the circuit court and the Court of Appeals as in other will cases.]

Section 365. KRS 394.310 is amended to read as follows:

The *district* [county] court before which a will has been probated may permit any person interested to withdraw the will temporarily upon proper terms, if it is shown that the original will is necessary as evidence in any proceeding pending in a foreign government, or in any state of the United States. A copy of the will shall always be retained and entered upon the records of the court permitting the withdrawal.

Section 366. KRS 394.320 is amended to read as follows:

A devisee may disclaim by deed, acknowledged or proved, and left for record in the *county* clerk's office of the *county* [court] in which the probate is made, within a year after notice of the probate. *A copy of such disclaimer shall be filed with the clerk of the district court in which probate was made.*

Section 367. KRS 394.620 is amended to read as follows:

(1) An instrument disclaiming a present interest shall be filed not later than six months after the death of the decedent or the donee of the power.

(2) An instrument disclaiming a future interest shall be filed not later than six months after the event that determines that the taker of the property or interest is finally ascertained and his interest indefeasibly vested.

(3) The disclaimer shall be filed in the *district* [county] court of the county in which proceedings have been commenced for the administration of the estate of the deceased owner or deceased donee of the power or, if they have not been commenced, in which they could be commenced. A copy of the disclaimer shall be delivered in person or mailed by registered or certified mail to any personal representative, or other fiduciary of the decedent or donee of the power. If real property or an interest therein is disclaimed, a copy of the disclaimer may be recorded in the office of the county clerk of the county in which the real estate is situated.

SECTION 368. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

The district court shall make settlements with personal representatives, trustees, assignees, committees, curators and guardians in his county, or appoint a special commissioner to make such settlements.

SECTION 369. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

(1) Upon the sworn application of any fiduciary, that the fiduciary is the sole beneficiary of any estate, the court may dispense with the requirements of this chapter regarding settlement of fiduciaries accounts and may dispense with the requirements of a surety for the fiduciary and shall accept from the fiduciary an informal settlement. The informal settlement shall be made, under oath, by the fiduciary and shall state that the estate was solvent; that all legal claims and debts have been paid, or if not paid, the manner in which said claims and debts have been provided for; that all inheritance, estate or similar death taxes have been paid and a duplicate or photocopy of such tax releases shall be attached, if available; that all court costs have paid; the name of the attorney(s), if any, representing the fiduciary, and the amount of the attorney's fee, and that the beneficiary has received his share. An informal settlement may be filed at any time after the period for filing claims against decedent's estate has elapsed, subject to the requirements of time for filing settlements as set out in this chapter. Upon the filing of the informal settlement, the court may enter an order discharging the fiduciary, and his surety, if any. When a settlement is effected in the informal manner, no notice to any person shall be required nor shall the court be compelled to inquire into detailed items of income or disbursements.

(2) If a proposed settlement of a fiduciary is accompanied by a verified waiver executed by all of the beneficiaries of an estate, and none of the beneficiaries is under a disability, the court shall accept from the fiduciary an informal settlement which meets the requirements of subsection (1) of this section. The court may

require the fiduciary to execute bond with or without surety to insure the application of the estate assets to the debts of the decedent.

(3) In the event that one or more of the beneficiaries of the estate is under a disability, the court may allow the filing of an informal settlement if the court is of the opinion that the best interests of the person under the disability would be served.

SECTION 370. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

One (1) year after appointment and annually thereafter, unless otherwise provided by law, every fiduciary must render an account of the execution of his trust to the court by which he was appointed, including in such account an itemized statement of receipts and disbursements supported by vouchers accompanying the same and a statement of all investments on hand and changes in investments since the filing of his last account. Provided, however, that guardians, committees and trustees under continuing trust, after their first accounting, shall render their accounts thereafter biennially, or at shorter intervals if the court shall require it. Such settlements, when approved and confirmed by the court, shall be recorded and indexed by the clerk, and the original and the vouchers carefully kept by him in his office. An account shall be rendered by the fiduciary at any other time upon order of the court upon its own motion or that of any person interested in the trust, for good cause shown on affidavit. At the expiration of his trust such fiduciary must fully account for and pay over the trust estate to the person or persons entitled thereto. Every such account shall list all unpaid creditors whose claims have been allowed and all creditors whose claims have been disallowed. No account of a fiduciary except of corporate fiduciaries under the supervision of state or federal banking authorities shall be approved until there are exhibited to the court, for its examination, the security or securities shown in said account as being in the hands of the fiduciary, or the certificate of a bank having possession thereof or in which they have been deposited for safekeeping, and a certified bank statement showing the funds to the credit of the trust.

SECTION 371. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

The district court or special commissioner may hear evidence for or against any item, and may question fiduciaries, under oath, about any matter connected with the settlement. Witnesses may be summoned at the instance of either party to give evidence when the settlement is made, or upon the trial of exceptions thereto, and their attendance may be coerced as in other cases. All oral evidence shall be electronically recorded and no evidence shall be presumed to have been heard unless it has been so recorded. No credit shall be allowed a fiduciary for disbursements, fees or services without legal evidence to justify it.

SECTION 372. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

The district judge or his commissioner shall make a written report of the settlement, showing each item of debit and credit, and the general result, and return it, with all evidence heard and vouchers filed, to the clerk of the district court. The clerk shall note it of record, and indorse on it the time of filing, and set a date for a hearing on the report.

SECTION 373. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

Not less than ten (10) days prior to the date of hearing, the clerk shall cause notice of the filing of a settlement to be published pursuant to KRS Chapter 424, stating the name of the fiduciary, the trust, the nature of the account and the date of hearing, with a statement that exceptions must be filed before that time; except that with the court's approval the fiduciary may, in lieu of such publication, send a written notice thereof to all unpaid creditors and distributees, which notice shall be mailed at least ten (10) days before said date of hearing. The fiduciary in such cases shall file his affidavit that such notice has been mailed. The actual cost of the notice, or the proportionate part thereof, if more than one (1) settlement, shall be taxed as costs.

SECTION 374. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

At the hearing, if no exceptions are filed, the report, if made according to law, shall be approved and recorded. If exceptions are filed, other evidence besides that reported may be heard, and the court shall upon the whole case, reject, confirm, alter or amend the report, and, if confirmed, order it to be recorded. The vouchers accompanying the report shall not be recorded, but must be carefully kept on file with the report in the clerk's office. Any new evidence given in court must be electronically recorded and filed with the report. Settlements so made and recorded shall be prima facie evidence between the parties interested.

SECTION 375. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

It shall be the duty of the clerk to report in writing to the judge once each month the names and addresses of all fiduciaries who have during the previous calendar month become delinquent in filing an inventory or settlement. The judge shall notify by mail such delinquent fiduciaries and shall warn them of the penalties provided by law. If the clerk shall fail to report such delinquents it shall be the duty of the judge to secure a list of same from the court records. There shall be assessed against each delinquent fiduciary a fee of one dollar ($1.00) for the preparation of said list and the mailing of said notice.

Section 376. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

The district judge shall at least once each year carefully inquire into the solvency of all the sureties upon the bond of each fiduciary, and if there is reason to believe that any bond is not amply sufficient to protect those interested, he shall at once give notice to the fiduciary that a new bond, or additional surety on the old one, is required, and upon the failure of the fiduciary to give the required bond or surety within a reasonable time fixed by the court, the court shall remove him.

SECTION 377. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

When the court directs, settlements of the accounts of fiduciaries made before and reported by any commissioner, and all reports of estates or funds received or disbursed, under order of the court, by its commissioner or receiver, after they have been confirmed by the court, shall be recorded by the clerk of the court in a book to be provided for that purpose. The vouchers accompanying the settlements or reports shall not be recorded.

SECTION 378. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

Where fiduciaries appointed in the district court are required to make settlement in the circuit court, the circuit clerk shall make and file in the office of the clerk of the district court a certificate of each approved settlement, showing the number and style of the case, the number of the file box in which the suit may be found in the circuit clerk's office, before whom made, when approved by the court and whether it is a final or partial settlement. The clerk of the district court shall record the certificate with the record of settlement in his office.

SECTION 379. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

The accounts of committees and trustees may be settled in the same manner, and the settlements shall have the same effect, as prescribed by Sections 368 and 376 of this Act. The district court of the county in which the committee is appointed, or in which the deed or will creating the trusts is recorded, shall have the jurisdiction of making the settlements.

SECTION 380. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

(1) Where the district judge of any county appoints a special commissioner under Section 368 of this Act, the special commissioner shall be paid by the fiduciary out of the estate in his hands as follows:

(a) Where the receipts and disbursements or, if distribution is omitted or made in kind, the value of the estate, is not more than five thousand dollars ($5,000), a sum not to exceed five dollars ($5.00);

(b) Where the amount is more than five thousand dollars ($5,000), but not more than fifty thousand dollars ($50,000), a sum not to exceed one-tenth of one percent (.1%);

(c) Where the amount is more than fifty thousand dollars ($50,000), a sum not to exceed one-tenth of one percent (.1%) on the first fifty thousand dollars ($50,000), and one-twentieth of one percent (.05%) on the excess;

(d) Where the amount is more than one million dollars ($1,000,000), no commission shall be charged on the excess.

(2) Where the fees allowed exceed two hundred dollars ($200), the fiduciary may, upon motion after ten (10) days' notice to the district judge or commissioner, have the reasonableness and adequacy of his compensation reviewed by the circuit court of the county.

Section 381. KRS 395.001 is amended to read as follows:

The term "fiduciary" as used in *this chapter* [KRS 25.175, 25.195, 25.205, 395.005, 395.105, 395.145, 395.200, 395.255 and 395.990] means any person, association, or corporation (other than assignee or trustee for an insolvent debtor or a guardian under the Uniform Veterans' Guardianship Act) appointed by, or under the control of, or accountable to, the *district* [county] court, including executors, administrators, administrators with the will annexed, testamentary trustees, curators, guardians and committees.

Section 382. KRS 395.015 is amended to read as follows:

(1) Before being appointed as executor, administrator, curator, or administrator with the will annexed, every person shall make and file in duplicate a written application under oath, which must state the names of the deceased's surviving spouse and all of his heirs-at-law or such as are known, their post-office address if known, the date of death and also a statement in general terms as to what the estate consists of and the probable value of the personal and real estate and also a statement of any indebtedness owing by the applicant to the deceased. The foregoing requirement in respect to names and addresses of heirs-at-law may be omitted

when the application is being made by the executor named in the will unless requested by the court. The application of a nonresident shall include the designation of a resident of the county where administration is pending as his agent for the service of process in any action against him as personal representative or personally, provided that such personal action must have accrued in the administration of the estate. A duplicate copy of said application shall be mailed by the clerk to the Commissioner of Revenue of the State of Kentucky.

(2) In the case of intestacy, or where an administrator with will annexed or de bonis non is to be appointed, if there be no surviving spouse, or if such spouse waives the right of appointment or is not qualified to act and does not nominate a suitable administrator and there is more than one resident heir-at-law entitled to appointment, the court shall thereupon set a time for hearing such application. Notice of said hearing shall be given to the surviving spouse and all known heirs of the deceased residing in the state, or elsewhere, in the manner provided in KRS 395.016.

[(3) A fee of five dollars ($5.00) shall be allowed the court for its appointment of an administrator or curator.]

Section 383. KRS 395.030 is amended to read as follows:

When a person dies intestate, the *district* [county] court which would have had jurisdiction to probate his will, had he made a will, shall have jurisdiction to grant administration on his estate.

Section 384. KRS 395.105 is amended to read as follows:

Every fiduciary, before entering upon the execution of the trust, shall receive letters of appointment from the *district* [county] court having jurisdiction as now fixed by law. The duties of a fiduciary shall be such as are required by law, and such additional duties not inconsistent therewith as the court may order. The appointment shall be effective with the signing of an order by the judge.

Section 385. KRS 395.140 is amended to read as follows:

(1) The *district* [county] court shall not accept as surety, in any bond of a personal representative, any master or other commissioner whose duty is to settle the accounts of personal representatives or any judge or clerk of a *district* [county] court or practicing attorney of that court.

(2) The bond shall be subscribed by the principal and sureties, approved by the court, attested by the clerk of the court and carefully kept by the clerk in his office in a book to be provided for that purpose.

Section 386. KRS 395.160 is amended to read as follows:

(1) If a personal representative moves out of the state and fails to designate a process agent as required by KRS 395.015(1), becomes insane or otherwise incapable to discharge the trust, goes bankrupt or insolvent or is in failing circumstances, the *district* [county] court shall remove him, and the other personal representative, if there is another, shall discharge the trust. If he resides in the county of his appointment or in an adjoining county, and is not insane, he shall have ten (10) days' notice before the order of removal is made. If he is insane, the notice shall be given to his committee, if he has one, and if there is no committee, the court may appoint one.

(2) The *district* [county] court may remove a personal representative for failing to give additional security when required under KRS 62.060 and appoint another.

(3) The court shall require a personal representative who is removed to settle his accounts, and deliver over the decedent's estate to the person appointed in his stead.

Section 387. KRS 395.380 is amended to read as follows:

(1) The *district* [county] court of each county shall appoint a discreet, fit person to act as administrator of decedents' estates of which there is no personal representative, and as guardian of orphans who have no guardian.

(2) He shall serve at the discretion of the *district* [county] court.

(3) He shall be sworn and execute bond with good surety to the state for the faithful discharge of his duties.

Section 388. KRS 395.390 is amended to read as follows:

(1) The *district* [county] court of a county which has a public administrator and guardian shall, after the expiration of thirty days from the death of the decedent, order the public administrator and guardian to administer the estate of the decedent where the surviving spouse and heirs waive their right to be appointed, or in the event any of the persons designated in KRS 395.040 are unable, or found to be incapable of handling or managing the estate, or if from any other cause there is no personal representative. If there is no public administrator and guardian, the court shall order the sheriff to administer the estate.

(2) The *district* [county] court shall also confide to the public administrator and guardian the care and control of the persons and estates of all minors when it appears that a minor has no testamentary guardian and no one will apply for appointment, or serve, as guardian.

Section 389. KRS 395.410 is amended to read as follows:

(1) During the contest about the probate of a will, or when the court for any valid cause is delayed in granting letters testamentary or administration, it may appoint a curator to collect and preserve the estate of the decedent until probate of the will is granted, or until the cause for which the order was made is removed.

(2) When any resident of this state or person owning property in this state has been absent from his last known place of residence for a period of one year and is not known to have been living during that time, the *district* [county] court of any county in which a personal representative could be appointed for that person's estate if deceased, may appoint a curator to collect and preserve the estate of that absent person.

(3) The court shall take bond with good surety from the person appointed curator for the full and faithful performance of the trust confided in him.

Section 390. KRS 395.430 is amended to read as follows:

(1) Before any curator is appointed for an absent person under subsection (2) of KRS 395.410, a written application requesting the appointment shall be filed with the *district court* [county] clerk. The application shall be verified and shall recite the fact of absence, the last known address of the absent person and the presence of property within this state or other ground requiring the appointment of a curator for the protection of the property or rights of the absent person. The application may be made by any relative, creditor or debtor of the absent person, or by any person in possession of or interested in any property or rights of the absent person.

(2) Upon the filing with the *district court* [county] clerk of any such application, the clerk shall send by United States certified mail, return receipt requested or by registered mail, a letter addressed to the absent person at the last known address as given in the application, stating that such application has been filed. The clerk shall publish pursuant to KRS chapter 424 a notice to the effect that an application for the appointment of a curator has been made.

Section 391. KRS 395.450 is amended to read as follows:

[(1)] The *district* [county] court that has jurisdiction to grant administration of the estate of a person dying intestate shall have jurisdiction of proceedings to dispense with administration.

[(2) The court shall be allowed a fee of five dollars for each order it enters under the provisions of this chapter dispensing with administration.]

Section 392. KRS 395.470 is amended to read as follows:

(1) Administration of the estate of a person dying intestate may be dispensed with by agreement if there are no debts owing by the estate; all persons beneficially entitled to the personal estate have agreed in writing that there shall be no administration; and either there are no claims or demands due the estate, or the written agreement to dispense with administration designates a trustee with power to collect claims and demands.

(2) The written agreement provided in subsection (1) shall be acknowledged by the parties and filed in the *district* [county] court together with the motion of the parties for an order dispensing with administration. If the court is satisfied by affidavit or otherwise that the conditions prescribed in subsection (1) exist, it shall enter an order dispensing with administration. If the written agreement of the beneficiaries designates a trustee to collect claims or demands, the order shall confirm the designation and the person so designated shall have the same right to sue for and collect claims and demands that an administrator has.

(3) The *district* [county] court shall be satisfied that provision has been made for the state inheritance tax and the United States estate tax.

(4) The persons applying for an order dispensing with administration shall advertise for creditors of the intestate to appear and present their claims to some person at the county seat. The person and place shall be designated in the advertisement. The advertisement shall also give notice when, where and by whom the order dispensing with administration will be applied for. The advertisement shall be posted at the courthouse door for six weeks, and published pursuant to KRS Ch. 424. The order dispensing with administration shall not be granted until the persons applying for the order file in the *district* [county] court the affidavit of one of them showing that advertisement for creditors has been made.

(5) The persons applying for the order dispensing with administration shall, before the order is entered, give bond with surety in double the amount of the personal estate for the benefit of any creditors who, within nine months from the intestate's death, appear and file their claims with the *court* [county] clerk. This bond shall be approved by the *district* [county] court and shall run to the state for the benefit of those creditors and be conditioned to be void if none of them files his claim with the clerk within nine months after the intestate's death.

Section 393. KRS 395.480 is amended to read as follows:

If any person beneficially interested in an estate is not sui juris, consent for that person to the written agreement provided by subsection (1) of KRS 395.470 may be given by his guardian, curator or committee. In the case of a prisoner otherwise sui juris, consent may be given by him personally instead of by his curator if it is acknowledged before the superintendent or keeper of the prison and the superintendent or keeper certifies that, in his opinion, the prisoner gave his consent freely. If any person not sui juris is beneficially interested, a trustee appointed under subsection (2) of KRS 395.470 to collect claims and demands shall not act until he has given bond to account for the share of that person and the bond has been approved by the *district* [county] court.

Section 394. KRS 395.510 is amended to read as follows:

(1) A representative, legatee, distributee or creditor of a deceased person may bring an action in *circuit court* [equity] for the settlement of his estate provided that no such suit shall be brought by any of the parties named except the personal representative until the expiration of six months after the qualification of such representative.

(2) The representatives of the decedent, and all persons having a lien upon or an interest in the property left by the decedent, or any part thereof, and the creditors of the decedent, so far as known to the plaintiff, must be parties to the action as plaintiffs or defendants.

Section 395. KRS 401.010 is amended to read as follows:

[(1)] Any person at least eighteen years of age may have his name changed by the *district* [county] court of the county in which he resides. If he resides on a United States army post, military reservation or fort his name may be changed by the *district* [county] court of any county adjacent thereto.

[(2) In every proceeding under this section and under KRS 401.020, the court shall be allowed a fee of five dollars.]

Section 396. KRS 401.020 is amended to read as follows:

A parent, or if no parent is living, the guardian, may have the name of a child under the age of eighteen changed by the *district* [county] court of the county in which the child resides. If the child resides on a United States army post, military reservation or fort his name may be changed by the *district* [county] court of any county adjacent thereto.

Section 397. KRS 401.030 is amended to read as follows:

The original name, age and place of birth, the name to which the change is made, and the names of the infant's father and mother, if known, and of the person on whose motion the change is made shall be entered on the order book of the *district* [county] court.

Section 398. KRS 401.040 is amended to read as follows:

(1) If the district court orders any person's name to be changed under this chapter, a copy of the order shall be certified by the clerk of that court to the county clerk, for record.

(2) The county clerk shall keep an alphabetical index for each [order] book *of records*, referring to the page on which each person's name *change appears* [is changed], and giving the name from and to which it is changed.

Section 399. KRS 402.020 is amended to read to read as follows:

Marriage is prohibited and void:

(1) With an idiot or lunatic;

(2) Where there is a husband or wife living, from whom the person marrying has not been divorced;

(3) When not solemnized or contracted in the presence of an authorized person or society;

(4) When at the time of marriage, the person is under eighteen (18) years of age, if the marriage is without the consent of the father, mother, guardian, or other person lawfully having charge of his or her person, provided, however, that in case of pregnancy the male and female, or either of them, under the ages herein specified may apply to a *district court* [county] judge for permission to marry, which application may be granted, in the discretion of the [county] judge. *There* [The court] shall be [allowed] a fee of five dollars ($5.00) for hearing each such application.

Section 400. KRS 402.030 is amended to read as follows:

Courts having general [equity] jurisdiction may declare void any marriage obtained by force or fraud or, at the instance of any next friend, may declare any marriage void where the person was under eighteen years of age at the time of the marriage, and the marriage was without the consent of the father, mother, guardian or other person lawfully having charge of his or her person and has not been ratified by cohabitation after that age.

Section 401. KRS 402.050 is amended to read as follows:

(1) Marriage shall be solemnized only by:

(a) Ministers of the gospel or priests of any denomination in regular communion with any religious society;

(b) Judges of the circuit court, judges of the county court, judges of the *district* [police] court and such justices of the peace as the Governor or the county court authorizes; or

(c) A religious society that has no officiating minister or priest and whose usage is to solemnize marriage at the usual place of worship and by consent given in the presence of the society, if either party belongs to the society.

(2) At least two persons, in addition to the parties and the person solemnizing the marriage, shall be present at every marriage.

Section 402. KRS 402.150 is amended to read as follows:

If the female applicant for a marriage license makes an affidavit to the effect that marriage is necessary because she is with child and that the marriage will confer legitimacy on the unborn child, the *district* [county] judge of the county in which the application is made may hear and determine on medical testimony the question of pregnancy and, on adjudging that pregnancy exists, shall order the county clerk to issue the marriage license if all other requirements of the law regulating the issuance of marriage licenses are complied with, even though the clinical examination and laboratory tests reveal that one or both applicants have a syphilis infection. In this order the *district* [county] judge shall provide that the applicant or applicants having syphilis infection shall be treated for the infection as provided by the regulations of the State Board of Health. A copy of the order shall be filed with the county clerk in lieu of the medical certificate.

Section 403. KRS 402.170 is amended to read as follows:

(1) When an applicant has been refused a marriage license by the county clerk because of failure to obtain a medical certificate, the applicant may elect to file a protest and take the procedure authorized by this section or to take any other proper procedure.

(2) If the applicant elects the procedure authorized by this section, he may file a protest before the *district court* [county judge] of the county in which the license was denied. Notice of the protest shall be served, in the same manner as a summons, upon the State Commissioner of Health and upon the county health officer, if there is one.

(3) The action shall be summarily heard and determined in chambers. All persons shall be excluded from the hearing except necessary officers of the court, attorneys of record in the matter under consideration, the county health officer or a physician appointed as a representative of the county health officer, the witnesses and any other persons authorized by the applicant to attend. [The evidence shall not be transcribed unless authorized by the applicant, and] All information, reports and evidence concerning the persons allegedly having a syphilis infection, and all recommendations, including laboratory reports pertaining thereto, shall be considered privileged communications and shall be inaccessible to the public. A final order upon any hearing in the matter shall simply state that the applicant may or may not secure the license sought if all other requirements of law regulating the issuance of a marriage license are complied with. There shall be no court costs chargeable for services incident to carrying out the provisions of this section, and such services shall be considered a part of the official duties of all officers involved in the proceedings.

(4) The protest may be heard by the *district court* [county judge] twenty days after it is filed, and upon the hearing the *district court* [county judge] shall, in addition to any other evidence, hear medical testimony by the medical examiner, or examiners, and testimony by the county health officer or by a physician authorized to practice medicine in this state and designated as a representative of the county health officer, and by a representative designated by the State Commissioner of Health. The medical testimony shall be addressed solely to the determination of whether the applicant is suffering from syphilis infection in a communicable stage or in a stage likely to become communicable. No evidence of a laboratory examination shall be admissible unless the examination was made in a laboratory approved by the State Commissioner of Health for the purpose of making serological tests. A written report of such an approved laboratory, attested by the physician in charge and identifying the applicant, shall be prima facie evidence of the result of the laboratory test made concerning the applicant.

Section 404. KRS 402.180 is amended to read as follows:

Either the Commissioner of Health or the applicant may appeal to the circuit court within sixty days from the date of the entry of the order determining the matter. [The action shall be docketed and heard de novo as an equity action, and all rules of equity and laws concerning equity actions, and] The provisions of

KRS 402.170 concerning testimony, shall apply *to such proceedings.*

Section 405. KRS 402.200 is amended to read as follows:

In order that the *district court* [county judge] and circuit *court* [judge] may arrive at just decisions under KRS 402.150, 402.170 and 402.180, the county health officer, after hearing the evidence, shall, by himself or by a physician authorized to practice medicine in this state and especially skilled in the diagnosis of pregnancy or in the diagnosis, prevention and treatment of syphilis, advise the *district court* [county judge or circuit judge] in writing as to the existence of pregnancy or of syphilis in communicable stage or a stage likely to become communicable. Such advice shall be considered by the court and made a part of the record.

Section 406. KRS 402.250 is amended to read as follows:

Where doubt is felt as to the validity of a marriage, either party may, by petition in *circuit court* [equity], demand its avoidance or affirmance; but where one of the parties was within the age of consent at the time of marriage, the party who is of proper age may not bring such a proceeding for that cause against the party under age.

Section 407. KRS 402.260 is amended to read as follows:

If any person under eighteen years of age marries without the consent of the parent or guardian, the court having general [equity] jurisdiction in the county of his residence shall, on the petition of a next friend, commit his estate to a receiver, who, upon giving bond, shall hold his estate and, after deducting a reasonable compensation for his services, pay out the rents and profits to his separate use during his infancy, under the direction of the court. When the person arrives at the age of eighteen the receiver shall deliver his estate to him, unless the court considers it for his benefit to continue it in the hands of the receiver.

Section 408. KRS 403.010 is amended to read as follows:

A jury shall not be impaneled in any action for divorce, alimony or maintenance, but courts having general [equity] jurisdiction may grant a divorce for the cause set out in this chapter. A decree of dissolution of marriage authorizes either party to marry again.

Section 409. KRS 403.090 is amended to read as follows:

[(1) The fiscal court of any county may, by resolution, authorize the appointment of a "friend of the court." If the circuit court of the county has but one judge, the appointment shall be made by the judge. If the court has two or more judges, the appointment shall be made by joint action of the judges, at the general term. The person appointed to the office of friend of the court shall serve at the pleasure of, and subject to removal by, the appointing authority. The person appointed shall be a licensed practicing attorney. He shall take the constitutional oath of office and shall give bond in such sum as may be fixed by the appointing judge or judges.]

(1) [(2)] It shall be the duty of the friend of the court to supervise and enforce the payment of sums ordered or adjudged by the circuit court in divorce actions to be paid for the care and maintenance of minor children. All persons who have been ordered or adjudged by the court, in connection with divorce actions, to make payments for the care and maintenance of children, shall, if so ordered by the court, make such payments to the friend of the court, and he shall see that the payments are properly applied in accordance with the order or judgment. However, if the court so directs, the payments may be made through the juvenile *session of district* court [of the county]; in such case the friend of the court shall render such assistance as may be required in keeping records concerning such payments and in the enforcement of delinquent payments [, and the circuit court may direct that a designated amount or portion of the funds appropriated by the fiscal court for expenses of the friend of the court be paid to the juvenile court as reimbursement for the expenses incurred by the juvenile court in connection with the handling of such payments]. The friend of the court shall promptly investigate all cases where payments have become delinquent, and when necessary shall cause the delinquent person to be brought before the court for the purpose of compelling payment. He shall ascertain the facts concerning the care, custody, and maintenance of children for whom payments are being made, and shall report to the court all cases in which the children are not receiving proper care or maintenance, or in which the person having custody is failing to furnish proper custody. He shall make such other reports to the court as the court may require.

(2) [(3)] In any action for divorce where the parties have minor children, the friend of the court, if requested by the trial judge, shall make such investigation as will enable him to ascertain all facts and circumstances that will affect the rights and interests of the children and will enable the court to enter just and proper orders and judgment concerning the care, custody and maintenance of the children. He shall make a report to the trial judge, at a time fixed by the judge, setting forth his recommendations as to the care, custody and maintenance of the children. He may request the court to postpone the final submission of any case to give him a reasonable time in which to complete his investigation.

(3) [(4)] The friend of the court shall have authority to secure the issuance by the court of any order, rule or citation necessary for the proper enforcement of orders and judgments in divorce actions concerning the custody, care and maintenance of children. In performing his duties under subsection *(2)* [(3)] of this section he shall attend the taking of depositions within the county, and shall have authority to cross-examine the witnesses; in the case of depositions taken on interrogatories, he may file cross interrogatories. He shall be duly notified of the time and place of the taking of depositions in all divorce actions where the parties have minor children, and shall attend the taking of all such depositions when he deems it necessary for the protection of the minor children, or when he may be directed by the court to attend.

(4) [(5)] The friend of the court shall not directly or indirectly represent any party to a divorce action except as he is herein authorized to represent the minor children of parties to a divorce action, but if an allowance is made for the support of a spouse and an infant child or children, he may proceed to enforce the payment of the allowance made to the spouse also.

[(6) The fiscal court of any county which has authorized the appointment of a friend of the court under this section shall, by resolution, fix a reasonable compensation for the friend of the court and make a reasonable allowance for his necessary expenses, equipment and supplies, payable out of the general fund of the county, upon approval of the judge or judges appointing him.]

Section 410. KRS 405.035 is amended to read as follows:

In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to the domestic relations clerk of the county or other [county] officer designated by the court to receive such payment, that portion of salary or wages of either parent due and to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance and education of the minor child. Such order shall be binding upon the employer upon the service by certified mail of a copy of such order upon such employer and until further order of the court. The employer may deduct the sum of fifty cents (50¢) for each payment made pursuant to such order. Any such order may be modified or revoked at any time by the court. Any such assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court. Provided, however, that no assignment under this section by an employe shall constitute grounds for dismissal of the employe.

Section 411. KRS 406.021 is amended to read as follows:

(1) Paternity may be determined upon the complaint of the mother, child, person or agency substantially contributing to the support of the child. Such action shall be brought by the county attorney upon the request of such complainant herein authorized.

(2) Paternity may be determined by the *district court* [county judge] when the mother and father of the child, either:

(a) Submit affidavits in which the mother states the name of the child's father and the father admits paternity of the child; or

(b) Give testimony before the *district court* [county judge] in which the mother states the name of the child's father and the father admits paternity of the child.

(3) If paternity has been determined or has been acknowledged according to the laws of this state, the liabilities of the father may be enforced in the same or other proceedings by the mother, child, person or agency substantially contributing to the cost of pregnancy, confinement, education, necessary support or funeral expenses. An action to enforce the liabilities shall be brought by the county attorney upon the request of such complainant herein authorized.

[(4) For every hearing held by the county court under the provisions of this chapter, the court shall be allowed a fee of five dollars.]

Section 412. KRS 406.035 is amended to read as follows:

(1) If paternity has been determined under the provisions of subsection (1) or (2) of KRS 406.021, the *court* [county judge] shall make a written order of paternity.

(2) Such orders are to be kept *separately* [in the county judge's office] and shall not be open for public inspection except that they may be inspected by employes of governmental agencies in the performance of their duties, all law enforcement agencies including county attorneys, Commonwealth's attorneys, *district* [county] and circuit court judges, and anyone else under order of the court expressly permitting inspection. Either party to an action under this chapter, or attorneys of a party to an action under this chapter shall be permitted to inspect the order entered in the action to which they are a party.

Section 413. KRS 406.051 is amended to read as follows:

The *district* [county] court has jurisdiction of an action brought under this chapter and all remedies for the enforcement of judgments for expenses of pregnancy and confinement for a wife or for education, necessary support or funeral expenses for illegitimate children. An appeal may be had to the circuit court if prosecuted within sixty days from the date of judgment. The court has continuing jurisdiction to modify or revoke a judgment for future education. All remedies under the Uniform Reciprocal Enforcement of Support Act are available for enforcement of duties of support under this chapter.

Section 414. KRS 407.100 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "State" includes any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law has been enacted.

(2) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.

(3) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced. "Responding court" means the court in which the responsive proceeding is commenced.

(4) "Court" means the circuit or *district* [county] court of this state and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

(5) "Law" includes both common and statute law.

(6) "Duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, legal separation, separate maintenance or otherwise and includes the duty to pay arrearages of support past due and unpaid.

(7) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support is commenced.

(8) "Obligee" means any person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(9) "Governor" includes any person performing the functions of Governor or the executive authority of any state covered by this chapter.

(10) "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

Section 415. KRS 407.170 is amended to read as follows:

All duties of support, including the duty to pay arrearages, are enforceable by action under this chapter including a proceeding for contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor. Jurisdiction of all proceedings hereunder shall be vested in the circuit or *district* [county] court.

Section 416. KRS 412.110 is amended to read as follows:

A surety, co-obligor, or cocontractor, or one of several defendants to a judgment may, by notice in writing served in person within the state on the creditor or plaintiff, or, if the plaintiff is a nonresident or absent from the place of his residence for the period of thirty days consecutively, upon his agent or his attorney, require him to sue or issue execution. If the creditor does not [sue to the next term thereafter at which he can obtain judgment and] in good faith prosecute the suit with reasonable diligence, or if the plaintiff does not, within ten days *after judgment* [thereafter], sue out execution and in good faith prosecute the collection, the co-surety, co-obligor, co-contractor, or defendant shall be discharged from all liability, except for his proper share according to the then existing condition of the several obligors, contractors, or defendants. In any joint suit against the whole, or separate suit against him, judgment shall be rendered against him separately, and only for such proper share. The written notice required in this section shall not be waived, unless the waiver is in writing. No waiver of the notice shall be pleaded as a defense or given in evidence, unless it is in writing.

Section 417. KRS 412.130 is amended to read as follows:

No surety shall be released from his obligation on any lost or destroyed judgment, or bond having the force of a judgment, because of any failure to sue out execution thereon for twelve months, unless the failure was for twelve months after the reentry of judgment or order of execution. However, this section shall not apply to a surety who was released by law at the time of the destruction or loss of the record or bond, nor unless proceedings to have a reentry of the judgment or order of execution had been commenced *as provided in KRS 422.210 and KRS 422.220* [before the second term of that court in which it should be had].

Section 418. KRS 413.090 is amended to read as follows:

Except as provided in KRS 413.110, 413.200, 413.210, 413.220, 413.230 and 413.240, the following actions shall be commenced within fifteen years after the cause of action first accrued:

(1) An action upon a judgment or decree of any court of this state or of the United States, or of any state or territory thereof, the period to be computed from the date of the last execution thereon.

(2) An action upon a recognizance, bond or written contract.

(3) An action upon the official bond of a sheriff, marshal, clerk, constable or any other public officer, or any commissioner, receiver, curator, personal representative, guardian, committee, or trustee appointed by a court or authority of law.

(4) An action upon an appeal bond or bond given on a supersedeas, attachment, injunction, order of arrest or for the delivery of property or for the forthcoming of property, or to obey or perform an order or judgment of court in an action, or upon a bond for costs, or any other bond taken by a court or judge or by an officer pursuant to the directions of a court or judge, in an action or after judgment or decree, or upon a replevin, sale or delivery bond taken under execution [,] *or* decree [or warrant of distress], upon an indemnifying bond taken under a statute, or upon a bond to suspend a proceeding, or upon a bond or obligation for the payment of money or property or for the performance of any undertaking.

Section 419. KRS 416.110 is amended to read as follows:

(1) When any fiscal court desires to condemn land under the authority of KRS 178.120, it shall adopt a resolution ordering the condemnation of the required land. The resolution shall set forth the facts contemplated by KRS 178.120, give a general description of the land, and the name of the owner if known, and shall direct the county attorney to institute the proceedings.

(2) The county attorney shall file the petition for condemnation in the *circuit* [county] court in the name of the county, and shall attach to the petition as an exhibit a certified copy of the resolution of the fiscal court. The resolution shall be prima facie evidence of the public use and necessity for the condemnation. Thereafter the proceedings shall be as provided in the Eminent Domain Act of Kentucky.

Section 420. KRS 416.210 is amended to read as follows:

Any burial association or corporation may condemn land by first recording, in the county clerk's office of the county where the land lies, a resolution that it needs the land to furnish a burial site for the public. It may condemn a sufficient roadway to have access to the land, not wider than one hundred feet. It may also condemn enough land, not exceeding five acres, adjacent to any land used for a cemetery for a chapel site. If the building of any state highway requires a change in the entrance to any cemetery, the burial association or corporation may condemn any adjacent land, not wider than one hundred feet for the new entrance. The condemnation procedure shall be in the *circuit court of the county pursuant to* [manner provided in] the Eminent Domain Act of Kentucky. This section shall not permit condemnation of more than forty acres at any one time.

Section 421. KRS 417.017 is amended to read as follows:

The award shall be entered as the judgment of the court [at the first term,] *at least* ten days *after* [before which] copies of the award are delivered to the parties, unless on exceptions filed, it be set aside by the court.

Section 422. KRS 419.130 is amended to read as follows:

(1) Any party to a hearing on a writ may appeal to the Court of Appeals by filing with the clerk of the court, within thirty days after the entry of the judgment, the original record and a transcript of the evidence, together with a notice of appeal, which notice shall be served on the other parties at least two days before the appeal is filed. Upon the filing of the appeal the clerk shall immediately deliver the papers to the Chief *Judge.* [Justice. If the Court is in vacation at the time the appeal is filed, the Chief Justice shall call together a majority of the judges of the Court who shall hear and determine the appeal as in regular session.]

(2) If the judgment in a habeas corpus proceeding orders the release of the person detained, any party may have the judgment stayed until the appeal is filed by notifying the judge rendering the judgment that he intends to appeal and upon complying with such terms as to bond or otherwise as the judge deems proper for the security of the person detained. The Court of Appeals may continue, modify or set aside the stay pending the appeal. The appellant may be required to give security for costs.

Section 423. KRS 421.010 is amended to read as follows:

(1) Except as provided in KRS 421.020 and subsection (2) of this section, a witness, subpoenaed or recognized to attend, shall be allowed one dollar for each day's attendance on court or arbitrators, or to give a deposition, or to give evidence on any legal occasion. Officers attending out of their county, under a subpoena

duces tecum, shall be allowed two dollars per day. A witness who resides more than twenty miles from the place to which he is subpoenaed shall be allowed four cents per mile and ferriages and tollage in going and returning, in addition to his per diem.

(2) [Except as provided in KRS 26.410,] A witness subpoenaed and attending a court inferior to the circuit court shall be allowed fifty cents per day if he resides in the same [justice's] district in which the court is held and if he resides out of the district, he shall receive the same fee as a witness in circuit court. [The witness shall claim his attendance in open court.]

Section 424. KRS 421.140 is amended to read as follows:

[The punishment for the contempt mentioned in KRS 421.110 shall be by fine, not exceeding thirty dollars, and imprisonment, not exceeding twenty-four hours; but an officer imposing such punishment shall promptly report his action, and the reasons therefor, to the court in which the action is pending; and the court may vacate or modify the order of the officer, and shall render judgment for the fine imposed by the officer, or so much thereof as is approved by the court.] If a witness refuse to testify, or to be sworn, or to give a deposition, he shall be imprisoned so long as he refuses [; and, if the court finally adjourns before he submits, he shall remain in prison until the next term], or until he testifies before an officer who is authorized to take his testimony. The final disposition of the case in which he so refuses shall discharge him from imprisonment.

Section 425. KRS 422.150 is amended to read as follows:

The testimony of any witness taken by a stenographic reporter [pursuant to KRS 28.430] may, in the discretion of the court in which it is taken, be used as evidence in any subsequent trial of the same issue between the same parties, where the testimony of such witness cannot be procured, but no testimony so taken shall be used in any criminal case without the consent of the defendant.

Section 426. KRS 422.200 is amended to read as follows:

When any papers in any suit pending or decided in any court, have been lost, destroyed, defaced, or obliterated, and there is in existence an attested copy thereof, such copy may be filed in the office where such papers belong in lieu of the originals, and shall be prima facie evidence of the contents of the originals, and may be used as such originals could have been in all after proceedings in the suits to which the original papers belonged. The party whose rights or interests are affected by the filing of such copies, shall be notified thereof, and may, [at the next succeeding term of the court, or at any earlier time] upon notice to the adverse party or his attorney, move to strike such copies from the files, and the court shall, if justice requires, strike them from the files of the court.

Section 427. KRS 422.230 is amended to read as follows:

If an order of *a* [the county] court, appointing an administrator, guardian or any person to any place, station, or trust; or, if the bond executed [in the county court] by any such person, or by an officer, is destroyed, obliterated, or lost, the court shall, by the appropriate proceeding, due notice thereof being given, supply the record, and require such person to execute a new bond, with good and sufficient sureties. If the person fails to execute a new bond when so required the court shall enter an order vacating his office or station.

Section 428. KRS 423.990 is amended to read as follows:

For each failure to record his protest as required by KRS 423.030, a notary public shall forfeit all his fees and shall be fined five dollars [, to be recovered by warrant before any justice of the peace of the county where the failure occurs].

Section 429. KRS 426.200 is amended to read as follows:

(1) Land shall be sold under execution to the highest bidder at the courthouse door of the county in which it lies [, on the first day of a county or circuit court held for the county]. Only so much land shall be sold as will satisfy the execution under which the sale is made.

(2) The officer making the sale shall first advertise the time and place of sale by written notice describing the land to be sold, posted at the courthouse door and three other places in the vicinity of the land for fifteen days next preceding the sale, or by newspaper notice if required by KRS 426.560.

(3) Before a sale of land, the officer shall have the land appraised, under oath, by two disinterested, intelligent housekeepers of the county, who may be sworn by him. If the appraisers disagree, the officer shall act as umpire. If a part of a tract only is sold, the part sold shall, after the sale, be revalued in like manner. The appraisal shall be in writing, signed by the persons making it, and returned with the execution. The officer shall refer to and explain the proceeding in his return on the execution, which return shall be recorded in full.

Section 430. KRS 426.450 is amended to read as follows:

(1) Any person against whom a judgment for money is rendered, except as provided in KRS 426.470, may, if an execution thereon has not been placed in the hands of a collecting officer, replevy the judgment for three months before the circuit court clerk [or the judge of the inferior court entering the judgment,] by giving bond with good surety to be approved by the officer.

(2) The bond, varied to suit the particular case, may be in substance as follows: "This day the defendant AB, together with CD, his surety come before the Clerk of the .... Court, [or before the presiding quarterly, city or police judge or justice of the peace of .... County,] and undertake that they will satisfy and pay EF or the Commonwealth of Kentucky, the judgment, including interest, if any, and costs amounting to $ ...., rendered against AB, by this Court, within three months with legal interest on the whole amount thereof from this date."

Section 431. KRS 426.460 is amended to read as follows:

(1) Any execution on a judgment, which could be replevied before the execution issued, may be replevied for three months at any time before a sale of property under the same, by the defendant giving to the officer a bond with good surety payable to the plaintiff, for the amount thereof including interest, costs, and half commission up to that time.

(2) The bond shall be in substance as follows: "We, A B, principal, and E F, surety, do bind ourselves, three months after the date hereof, to pay C D the plaintiff in execution, the sum of $ ...., to bear interest from this date, being the amount of an execution which issued from the clerk's office of the .... court [(or county court) of ....(or the office of G H, a justice of the peace in and for .... County, as the case may be)], on the .... day of .... in favor of the said C D, for the sum of $ .... debt or damages, $ .... interest, $ .... cost of suit, $ .... sheriff's (or constable's) half commission, amounting in the whole to the sum of $ .... aforesaid, against the said A B; and we, A B and E F, his surety have hereby replevied the same. Witness our hands this .... day of ...., 19..."

Section 432. KRS 426.480 is amended to read as follows:

An agreement to waive the right to replevy, or any other legal agreement in relation to any judgment, if entered on the record among the orders of court, shall be specifically enforced. The proper endorsement shall be made on the execution by the clerk [,] *or* judge [or justice].

Section 433. KRS 426.490 is amended to read as follows:

(1) If the right to replevy exists and is not exercised, sales under execution shall be on a credit of three months, upon the purchaser giving bond with good surety to the plaintiff in execution for the payment of the sale money, bearing interest from date.

(2) The bond shall be in substance as follows: "We, A B, principal, and C D, surety, do bind ourselves to pay to E F, within three months from the date hereof, the sum of $ ...., with interest thereon from this date, being the purchase money for (here set out the several items of the property so purchased, with the price of each) which was this day sold by G H, sheriff (or constable and so forth, as the case may be), of .... County, in satisfaction of an execution which issued from the office of the clerk of the .... [circuit] court [(or K L, a justice of the peace for .... County, or from the office of A B, county judge, as the case may be)], on the .... day of ...., in favor of E F against M O, for the sum of $ ...., debt of damages, with interest and costs. Given under our hands this .... day of .... 19..."

Section 434. KRS 426.554 is amended to read as follows:

The court may, after reasonable notice, quash an execution on the ground that the representative or successor of a deceased plaintiff is not properly stated in the indorsement on the execution [; and during vacation of the court the defendant may obtain an injunction, upon its being made to appear that the persons named are not entitled to the judgment on which the execution was issued].

Section 435. KRS 426.555 is amended to read as follows:

(1) The death of a defendant after a sale of his property under execution shall not prevent a conveyance of the property. It shall be conveyed in the same manner and with the same effect as if he were living.

(2) The levy of an execution is not discharged by the death of the defendant; but is suspended according to the provisions of the next following subsection.

(3) A judgment, or the levy of an execution, may be revived against the personal representative or successor of a defendant after the lapse of six months from the time of the qualification of his first representative; and against a real representative after the lapse of twelve months from the time of the death of the defendant. If, however, owing to the perishable nature of the property levied on, or the cost of keeping it, a sale of it would be beneficial, the court [, or the judge in vacation,] may so order; and the proceeds shall be held subject to the order of the court on the rule for a revivor.

(4) The revivor may be made upon a rule in the action, ten days' notice of which shall be served in the same manner as summons. The motion for revivor shall be docketed and tried as other motions, and the court may cause execution to issue without delay.

Section 436. KRS 426.650 is amended to read as follows:
[Subject to the provisions of KRS 426.670,] The bond, with the appraisement annexed thereto, shall be returned to the [circuit] court [of the county] in which the levy was made.

Section 437. KRS 426.680 is amended to read as follows:
If an officer levy an execution upon personal property held by the execution debtor jointly with another person:
(1) The officer shall not deprive such person, without his consent in writing, of the possession of the property, except for the purpose of having it inventoried and appraised, which he shall cause to be done pursuant to the provisions of KRS 426.645;
(2) The officer shall return the inventory and appraisement, with the execution, to the office from which it issued; and shall state in his return the facts connected with the levy, and the claim of the joint owner;
(3) The execution creditor shall have a lien upon the property levied on, such as is given by law to an execution in the hands of an officer; and upon the aforesaid return, the creditor may enforce said lien by an action in equity;
(4) If such creditor, at the commencement of his action or afterward, shall file an affidavit that he verily believes the property levied upon will be removed from the county or sold or otherwise disposed of with intent fraudulently to defeat his lien, the court, or the *district court if no circuit judge is available* [circuit judge thereof in vacation, or the presiding judge of the county court], may make an order directing the officer to possess himself of the property so levied upon, unless bond, with approved security, shall be executed to the plaintiff in the execution, binding the obligors in said bond to have the same forthcoming in obedience to any order or judgment of the court in the action; which bond shall be taken by the officer and returned by him to the court in which the action is pending.

Section 438. KRS 431.015 is amended to read as follows:
(1) A peace officer may issue a citation instead of making an arrest for a misdemeanor committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.
(2) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a *judge* [magistrate] and a warrant shall issue.

Section 439. KRS 431.100 is amended to read as follows:
All fines and forfeitures imposed by law *or ordinance* shall inure to and vest in the Commonwealth [,except where,by law,the whole or a part thereof is given to a person or to some particular object, and may be recovered by civil procedure by the person to whom it is given or upon indictment or information].

Section 440. KRS 431.200 is amended to read as follows:
Any person convicted of a felony for taking, injuring or destroying property shall restore the property or make reparation in damages. The court in which the conviction is had, if applied to by verified petition *made within ninety (90) days of the date* [at the same term in which] the sentence was pronounced, may order restitution or give judgment against the convict for reparation in damages, and enforce collection by execution or other process. In motions for restitution or reparation, the court shall cause the prisoner to be brought into court, and demand of him if he has any defense to make to the motion. If he consents to the restitution or to reparation in damages in an agreed sum, the court shall give judgment accordingly. Otherwise a jury shall be impaneled to try the facts and ascertain the amount and the value of the property, or assess the damage, as the case may be. A failure to pursue this remedy shall not deprive the person aggrieved of his civil action for the injury sustained. The person injured shall have a lien on the estate of the criminal from the time of his arrest.

Section 441. KRS 431.210 is amended to read as follows:
If any person indicted for stealing property, or for having stolen property in his possession, breaks jail, forfeits his recognizance, or otherwise fails to appear for trial at the proper time, the person claiming the property may make a motion in the court in which the indictment is pending for the return of the property to him. The claim shall be supported by the affidavit of the person claiming the property. The motion shall be continued *for 30 days before* [until the next term of the court for] final action *is taken.* A notice of the motion, served upon the attorney for the Commonwealth, shall be taken as a notice served upon the person

named in the indictment, and shall give the court jurisdiction of the matter. The attorney for the Commonwealth shall defend the motion. A jury shall try the facts, and if it finds in its verdict that the claimant is entitled to the possession of the property, the court shall enter judgment accordingly. The court may enforce the judgment by rule, attachment and imprisonment as in cases of contempt. The costs of the proceedings shall be paid by the claimant, for which he may have judgment and execution against the person stealing the property.

Section 442. KRS 431.215 is amended to read as follows:

If the judgment imposes a sentence of death or confinement in the penitentiary, county jail or other institution, two certified copies thereof shall be furnished forthwith to the sheriff who shall execute the same by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail or institution of confinement and making a written return thereof in the office of the *circuit* clerk within ten days after the execution.

Section 443. KRS 432.230 is amended to read as follows:

Witnesses, jurors and officers of courts, for [a contempt in] disobeying a summons of court, or neglecting to execute or make due return of a subpoena or order of court or other judicial officer, [or for any other contempt,] may be *punished for contempt* [fined by the court or officer sitting as such not more than thirty dollars].

Section 444. KRS 432.570 is amended to read as follows:

(1) It shall be unlawful for any person except a member of a police department or police force or an official with written authorization from the head of a department which regularly maintains a police radio system authorized or licensed by the federal communications commission, to have in his or her possession, or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the federal communications commission, or its successor, for the purpose of police radios, or which may, in any way intercept or interfere with the transmission of radio messages by any police or other peace officers and it shall be unlawful for any car, automobile or other vehicle other than one publicly owned and entitled to an official license plate issued by the state issuing a license for said car, to have, or be equipped with such sets or apparatus even though said car is owned by an officer. Provided, however, the provisions of this section shall not apply to any automobile or other vehicle owned or operated by a member of a sheriff's department authorized by the fiscal court to operate a radio communications system that is licensed by the federal communications commission or other federal agency having the authority to license same.

(2) Any person guilty of violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars and not exceeding five hundred dollars, or imprisonment not exceeding twelve months, or both so fined and imprisoned.

(3) It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this section, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the trial court to order such equipment or apparatus destroyed, forfeited or escheated to the Commonwealth of Kentucky, [or to any county, city or town within which such court sits or holds its sessions] and said property may be ordered destroyed, forfeited or escheated as above provided without a conviction of the person charged with violating this section.

(4) Nothing contained in this section shall prohibit the possession of a radio by:

(a) An individual who is a retailer or wholesaler and in the ordinary course of his business offers such radios for sale or resale or by;

(b) A commercial or educational radio or television station, licensed by the federal communications commission, at its place of business.

(5) The commissioner of the executive department for finance and administration is hereby empowered by issuance of a commissioner's order to exempt from the prohibitions and penalties of this section the possession and use of any and all radio communication equipment that he finds is necessary to be owned and used by members of the general public and other non-police persons for utilization in the N.O.A.A. weather radio system.

Section 445. KRS 436.605 is amended to read as follows:

(1) Dog wardens and officers and agents of humane societies shall have the powers of peace officers for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty and mistreatment of animals, provided they possess the qualifications required under KRS 61.300.

(2) Any peace officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth, who shall make oath before any judge of

a *district* court that he has reasons to believe or does believe that an act of cruelty to animals is being committed in a building, barn or other enclosure, the said judge shall thereupon on proof of demand having been made, issue a search warrant directed to any peace officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth or other peace officer to search the said premises, and if upon such search it is found that an act of cruelty to animals is being perpetrated to forthwith arrest such offender or offenders and bring him or them before the said court for trial.

Section 446. KRS 439.095 is amended to read as follows:

The director of welfare of any county containing a city of the first class may promulgate rules and regulations for the creation, supervision and operation of a system of parole whereby there may be deduction for good conduct from the time of persons confined in the workhouse or penal farm of such county by reason of a judgment of any court within such county. Provided, however, said system shall not become effective until such rules and regulations are approved by the *district* [fiscal] court of such counties and may be amended by a similar procedure. If there is no director of welfare in such county, the *district* [fiscal] court shall have the exclusive authority to promulgate such rules and regulations.

Section 447. KRS 439.177 is amended to read as follows:

(1) Any misdemeanant, sentenced for a period of 30 days or more, may [if sentenced by the police court of a city of the first, second or third class,] petition the *district* judge of the sentencing court for parole privileges. [Any misdemeanant, sentenced by the police court of a city of the fourth, fifth, or sixth class or by any court other than in a city of the first three classes, may petition the county judge of the county in which he is held, for parole privileges.]

(2) The *district* [county or police court] judge shall study the record of all persons petitioning for parole and, in his discretion, may:

(a) Cause additional background or character information to be collected or reduced to writing by the bureau of corrections;

(b) Conduct hearings on the desirability of granting parole;

(c) Impose on the parolee such conditions as he sees fit;

(d) Order the granting of parole;

(e) Issue warrants for persons when there is reason to believe they have violated the conditions of their parole and conduct hearings on such matters;

(f) Determine the period of supervision for parolees, which period may be subject to extension or reduction;

(g) Grant final discharge to parolees.

(3) The *district* [county or police court] judge shall keep a record of his acts, and shall notify the appropriate jail official of his decision relating to the persons who are or have been confined therein.

(4) Whenever an order for parole is issued it shall recite the conditions thereof, and such orders shall be transmitted to the bureau of corrections.

(5) The period of time spent on parole shall not count as a part of the prisoner's maximum sentence except in determining the parolee's eligibility for a final discharge from parole as set out in subsection (7).

(6) Paroled prisoners shall be under the supervision of the department and subject to its decision for the duration of parole. Supervision of the parolee by the bureau of corrections shall cease at the time of recommitment of the prisoner to the jail as a parole violator, or at the time a final discharge from parole is granted by the *district* [county or police court] judge.

(7) When any paroled prisoner has performed the obligations of his parole during his period of active parole supervision the *district* [county or police court] judge may, at the termination of such period to be determined by the *district* [county or police court] judge, issue a final discharge from parole to the prisoner. Unless ordered earlier by the *district* [county or police court] judge, a final discharge shall be issued when the prisoner has been out of jail on parole a sufficient period of time to have been eligible for discharge from jail by maximum expiration of sentence had he not been paroled, provided before this date he had not absconded from parole supervision or that a warrant for parole violation had not been issued.

(8) The prisoner convicted of a misdemeanor and released on parole under the provisions of this statute shall be subject to all reasonable bureau of corrections rules and regulations.

Section 448. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless such privilege is expressly granted by the court, the prisoner is sentenced to ordinary confinement. The prisoner may petition the court for such privilege at the time of sentence or thereafter, and, in the discretion of the court, may renew his petition. The court may withdraw the privilege at any time by order entered with or without notice.

(3) The jailer shall notify the Department for Human Resources which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the *district* [fiscal] court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. Such wages or salary are not subject to garnishment of either the employer or the *district* [fiscal] court during the prisoner's term, and shall be disbursed only as provided in this section; but for tax purposes they are the income of the prisoner.

(4) Every prisoner gainfully employed is liable for the cost of his board in the jail, at the amount established by law. If he defaults his privilege under this section is automatically forfeited. In those cases where the prisoner is confined for a breach of the bylaws or ordinances of a city, or for violation of a statute where the city gets the benefit of the fine, the board will be paid by the *district* [fiscal] court to the city treasury. In those cases where the prisoner is confined for contempt, board shall be paid by the *district* [fiscal] court to the state treasury. In all other cases the fiscal court shall receive the wages earned and disburse the funds as provided in subsection (5). The fiscal court may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment.

(5) Unless otherwise ordered by the sentencing court [or the county judge], the wages or salaries of employed prisoners shall be disbursed by the *district* [fiscal] court on a monthly basis for the following purposes and in the order stated:

(a) The board of the prisoner;

(b) Support of the prisoner's dependents, if any;

(c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(d) The balance, if any, to the prisoner upon his discharge.

(6) If the prisoner was convicted in a justice or a police court, the *district* [county] judge shall have authority and jurisdiction to make all determinations and orders under this section as might otherwise be made by the sentencing court after the prisoner is received at the jail.

(7) The *district* [fiscal] court may direct that its functions under subsections (3) or (5) or both be performed by any bonded *public* [county] official. Such order shall remain in force until rescinded by the *district* [fiscal] court.

(8) The bureau or corrections shall, at the request of the *district* [county] judge, investigate and report on the amount necessary for the support of the prisoner's dependents.

(9) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed 5 days.

(10) Nothing in this statute shall be construed to affect KRS 64.150 which provides for the payment of fees to the jailer. In this section "jail" refers to all misdemeanant institutions, and "jailer" to the superintendent thereof, but, in counties of the first class, "jailer" designates the sheriff who serves as superintendent of the jail.

Section 449. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any *district* [county] or circuit court may, upon motion of the defendant made not earlier than thirty (30) days nor later than sixty (60) days after the defendant has been delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon such terms as the court determines. The court which tried the defendant may also suspend the sentence and place the defendant on probation upon its own motion, made within the same thirty-day period.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

Section 450. KRS 439.550 is amended to read as follows:
If any *district* court [inferior to the circuit court] places a person on probation following a conviction of crime, either upon verdict or plea, the court may direct that such defendant be under the supervision of the Bureau of Corrections [or provide its own supervision through the welfare department of the city or the fiscal court of the county].

Section 451. KRS 440.030 is amended to read as follows:
If any person in custody under an execution, on mesne or final process, by any order of a judge or on a charge of crime escapes, any *judge* [magistrate], upon complaint and affidavit made of the fact, shall issue as many warrants for his capture directed to all peace officers as he deems necessary. The cause of the person's original commitment shall be mentioned in the warrant, and it shall command all peace officers to capture the prisoner and forthwith to convey and commit him to the prison of the county from which he escaped, to be safely kept there, without bail, until discharged by due course of law. The warrant, with the proper endorsement thereon, shall be returned by the proper officer to the clerk of the court having jurisdiction of the cause for which the prisoner was in custody.

Section 452. KRS 440.090 is amended to read as follows:
When the governor of this state makes requisition upon the governor of another state for a fugitive from justice, the person named in the requisition as the agent of this state shall, unless a different condition is contained in his commission, be allowed as compensation from the state treasury for his services a mileage allowance at the same rate fixed by regulations adopted by the commissioner of the executive department for finance and administration pursuant to KRS 44.060, plus an additional sum calculated at the rate of five cents per mile for the distance he travels to and from the jail of the county designated in the proclamation to the place where the fugitive is arrested, and any other necessary expenses he pays in reclaiming and returning the fugitive. If the agent is not given possession of the fugitive for reasons beyond the agent's control, he shall nevertheless be allowed the compensation prescribed by this section. Upon the return of the fugitive to the county in which the jail named in the proclamation is located, the person having him in charge shall go before a *judge* [magistrate], who shall issue a mittimus to the jailer to receive the prisoner and keep him until he is discharged.

Section 453. KRS 440.100 is amended to read as follows:
In aggravated cases of murder and other felonies against the person when the accused flees from justice, the Governor, on petition of the circuit or *district* [county] judge of the county, may issue a proclamation offering a reward of not more than five hundred dollars for the apprehension of the accused. This reward shall be paid upon production of a receipt from the officer named in the Governor's proclamation, showing delivery of the fugitive to him, approved and certified by the circuit court of the county of that officer's residence.

Section 454. KRS 440.250 is amended to read as follows:
No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a circuit court *or district court* [,county court, or police court] in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting attorney of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

Section 455. KRS 440.270 is amended to read as follows:
(1) Whenever any person within this state shall be charged on the oath of any credible person before any judge [or magistrate] of this state with the commission of any crime in any other state and, except in cases arising under KRS 440.210, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge [or magistrate] in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that

the accused has been charged in such state with the commission of the crime, and, except in cases arising under KRS 440.210, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole and is believed to be in this state, the judge [or magistrate] shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the circuit *or district judge of the* [judge, the judge of the county court or the police judge of a city in the] county in which he was arrested who may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

(2) No bail bondsman or his agent shall arrest, detain, imprison, or remove from the state any person for having broken the terms of his bail unless a warrant for that person's arrest has been issued as provided for in subsection (1) of this section.

(3) Any violation of subsection (2) of this section shall be deemed as a Class D Felony and punishable thereas.

Section 456. KRS 440.370 is amended to read as follows:

(1) When the return to this state of a person charged with crime in this state is required, the Commonwealth's attorney or county attorney shall present to the Governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

(2) When the return to this state is required of a person who has been convicted of a crime in this state and escaped from confinement or broken the terms of his bail, probation or parole, the Commonwealth's attorney or county attorney of the county in which the offense was committed, the chairman of the parole board, or the warden of the institution or county attorney of the county from which escape was made, shall present to the Governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

(3) The application shall be verified by affidavit, shall be executed in triplicate and shall be accompanied by three certified copies of the indictment returned, or affidavit made before a judge [or magistrate] and warrant of arrest issued thereon, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The Commonwealth's attorney or county attorney, chairman of the parole board or warden shall also attach such further affidavits and other documents in triplicate as he or the Attorney General may deem proper to be submitted with such application. When the application is made pursuant to subsection (1) of this section, the prosecuting attorney shall, unless the case is of the type mentioned in KRS 440.210, submit to the Governor proof in the form of an affidavit that the accused was personally present in this state at the time of commission of the crime charged. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, affidavit and warrant, or of the judgment of conviction or of the sentence shall be filed in the office of the Secretary of State to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

Section 457. KRS 440.400 is amended to read as follows:

(1) Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in KRS 440.220 and 440.230 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any *district or* circuit court [, county court or police court] within this state a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in KRS 440.250.

(2) If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Secretary of State of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive

procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

Section 458. KRS 441.010 is amended to read as follows:
The county court shall prescribe rules for the government and cleanliness of the county jail and the comfort and treatment of prisoners. [The county court may, by fine, enforce the rules, and punish the jailer for disobedience thereof or for neglect of his official duties.] The county judge shall inspect the jail at least once each month.

Section 459. KRS 441.030 is amended to read as follows:
If in any county there is no jail, or the jail is insecure, or there is danger or probable danger that any or all of the persons confined in the jail under any order or process of the circuit court, or held to answer any charge in the circuit court, will be removed from the jail by violence, the circuit judge shall, by an order made of record [if the court is in session, or by written order filed with the clerk of the court if the court is not in session], direct that any or all of such persons be transferred to the jail of the nearest county in which the jail is secure and they can be safely kept. When any such order is made, and a copy thereof is furnished to the jailer of the county designated, he shall receive all such prisoners. If the circuit judge is not in the county, the order of transfer may be made by the *district* [county] judge, who shall deliver the order, or a copy thereof, to the circuit clerk for revision by the circuit court.

Section 460. KRS 441.050 is amended to read as follows:
If there exists threatened violence or intense feeling and public indignation against a person charged with a crime and in the custody of an officer, and the circuit judge of the county that has jurisdiction of the offense charged is of the opinion that the person cannot be safely kept in the jail in that county, the circuit judge, with the consent of the Governor, may order such person removed for safekeeping to the state reformatory or the state penitentiary, whichever is most convenient to the county having jurisdiction of the offense charged. In the absence of the circuit judge from the county, the *district* [county] judge of the county shall exercise the powers conferred by this section upon the circuit judge. The officer who makes the removal shall be entitled to the actual expenses in making the removal, and in addition he shall receive a fee of five dollars per day for himself and two and one-half dollars per day each for not more than two guards. The claim for fees and expenses shall be presented for approval to the circuit court of the county having jurisdiction of the offense. If the person removed is charged with a felony the expenses and fees shall be paid by the state; if charged with a misdemeanor the expenses and fees shall be paid by the county having jurisdiction of the offense charged.

Section 461. KRS 441.270 is amended to read as follows:
The police matron or one of the assistant police matrons shall attend the circuit court and the *district* [police] court in the city whenever a female prisoner is brought before such courts, and shall have charge of the prisoner, subject to the orders of the court. If it becomes necessary to search a female prisoner, it shall be done by or in the presence of the matron or an assistant matron.

Section 462. KRS 441.990 is amended to read as follows:
A violation of KRS 441.020 shall be deemed a misfeasance in office, and the *district* [county] court may fine the jailer therefor, or he may be indicted and fined at the discretion of a jury.

Section 463. KRS 446.010 is amended to read as follows:
As used in the statute laws of this state, unless the context requires otherwise:
(1) "Action" includes all proceedings in any court of this state;
(2) "Animal" includes every warmblooded living creature except a human being;
(3) "Attorney" means attorney at law;
(4) "Bequeath" and "devise" mean the same thing;
(5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
(6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog or goat of any age or sex;
(7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company or association;
(8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company or association;
(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering or death is caused or permitted;
(10) "Directors", when applied to corporations, includes managers or trustees;
(11) "Domestic", when applied to corporations, means all those incorporated or formed by authority of this state;

(12) “Domestic animal” means any animal converted to domestic habitat;

(13) “Federal” refers to the United States;

(14) “Foreign“, when applied to corporations, includes all those incorporated or formed by authority of any other state;

(15) “Humane society“, “society“, or “Society for the Prevention of Cruelty to Animals“, means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(16) “Issue“, as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(17) “Juvenile Court” means the juvenile session of district court.

(18) [(17)] “Land” or “real estate” includes lands, tenements and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(19) [(18)] “Legatee” and “devisee” convey the same idea;

[(19) “Magistrate” includes county judge, police judge and justice of the peace;]

(20) “May” is permissive;

(21) “Month” means calendar month;

(22) “Oath” includes “affirmation” in all cases in which an affirmation may be substituted for an oath;

(23) “Owner” when applied to any animal, means any person having a property interest in such animal;

(24) “Peace officer” includes sheriffs, constables, coroners, jailers, marshals, policemen and other persons with similar authority to make arrests;

(25) “Penitentiary” includes all of the state penal institutions except the houses of reform;

(26) “Person” may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships and joint stock companies;

(27) “Personal estate” includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(28) “Regular election” means the election in even numbered years at which members of Congress are elected and the election in odd numbered years at which state officers are elected.

(29) “Shall” is mandatory;

(30) “State” when applied to a part of the United States, includes territories, outlying possessions and the District of Columbia; “any other state” includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(31) “Sworn” includes “affirmed” in all cases in which an affirmation may be substituted for an oath;

(32) “United States” includes territories, outlying possessions and the District of Columbia;

(33) “Vacancy in office“, or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(34) “Violate” includes failure to comply with;

(35) “Will” includes codicils; “last will” means last will and testament;

(36) “Year” means calendar year; and

(37) “City” includes town.

Section 464. KRS 451.180 is amended to read as follows:

The bond given by a purchaser of property at a judicial sale shall be made payable to the circuit clerk [, except that in courts having continuous session in counties of less than 150,000 population and constituting separate judicial circuits the bond shall be made payable to the commissioner who makes the sale]. Proceedings on the bond may be had in the name of the clerk [or commissioner] to whom it is made payable on the relation of the person interested, and the person interested shall be responsible for the costs. The performance of the bond may be summarily enforced by orders of court, and by proceedings for contempt.

SECTION 465. A NEW SECTION OF KRS CHAPTER 452 IS CREATED TO READ AS FOLLOWS:

The provisions of this chapter shall apply to venue and change of venue in civil, criminal, and penal actions in district courts, except that, for change of venue, an action shall be transferred to a district court of another county and not to a circuit court.

Section 466. KRS 452.110 is amended to read as follows:

KRS 452.010 to 452.090 apply only to civil actions in circuit *and district* courts.

Section 467. KRS 452.220 is amended to read as follows:

(1) If the application for change of venue is made by the state, a petition stating the reasons therefor and signed by the Commonwealth's attorney shall be filed in court. Reasonable notice of the time when the application will be made shall be given in writing to the defendant or, if he is absent from the county, to his attorney.

(2) If the application is made by the defendant, it shall be made by petition in writing, verified by the defendant, and by the filing of the affidavits of at least two other credible persons, not kin to or of counsel for the defendant, stating that they are acquainted with the state of public opinion in the county objected to, and that they verily believe the statements of the petition for the change of venue are true. The Commonwealth's attorney or, in his absence from the county, the county attorney shall be given reasonable notice, in writing, of the application. If objections to all the adjoining counties are made and sustained, the change shall be made to the nearest county to which there is no valid objection, preference being given to counties of the same judicial circuit.

(3) Applications under this section shall be made and determined [upon] in open court, [during a regular or called term,] and the court shall hear all witnesses produced by either party and determine from the evidence whether the defendant is entitled to a change of venue.

Section 468. KRS 452.350 is amended to read as follows:

KRS 452.210 to 452.340 apply to criminal or penal actions in circuit *and district* courts.

Section 469. KRS 453.060 is amended to read as follows:

(1) If the successful party is represented by a licensed attorney and no jury is impaneled, the following attorney's fees shall be allowed:

(a) In the Court of Appeals:	
In equity cases,	$10.00
In common-law cases,	5.00
(b) In the circuit court:	
In equity cases,	5.00
In common-law cases,	2.50
(c) In all cases in the *district* [county] court,	2.50
[(d) In all cases in the quarterly court,	2.50]

(2) A guardian ad litem or warning order attorney shall be allowed by the court a reasonable fee for his services, to be paid by the plaintiff and taxed as costs.

(3) In a county containing an urban-county form of government the attorney fees allowed by subsection (1)(b) [,] *and* (c) [and (d)] shall be taxed as costs at the termination of the action and the clerks of the various courts shall at the end of each month pay all sums collected as taxed attorney's fees during the month to the trustees of the county law library to be used by the trustees pursuant to KRS Chapter 172.

Section 470. KRS 453.070 is amended to read as follows:

(1) If a party to a civil action obtains a continuance, or files an amendment that causes a continuance, he shall pay the costs *occasioned thereby* [accruing at that term].

(2) If an action is dismissed for want of jurisdiction, the party in error shall pay the costs.

(3) If a party obtains further time to plead or to amend his pleadings, he shall pay the costs occasioned thereby.

Section 471. KRS 453.100 is amended to read as follows:

The party to whom a new trial is granted upon payment of costs shall, within forty days thereafter, pay the costs of the former trial. If he fails to pay the costs within that time, the court may, upon motion made by the adverse party within *ten (10) days after the expiration of the forty (40) day period* [three days after the commencement of the next regular term], set aside the order granting a new trial and enter judgment on the verdict already rendered.

Section 472. KRS 453.170 is amended to read as follows:

On a reversal of a judgment in the Court of Appeals *or Supreme Court*, the appellant shall recover of the appellee such costs as the Court of Appeals *or Supreme Court*, in its discretion, awards.

Section 473. KRS 453.190 is amended to read as follows:

(1) [Except as provided in paragraph (b) of subsection (2) of KRS 28.460,] A court *shall* [may] allow a poor person residing in this state to *file* [prosecute] or defend any action *or appeal* therein without paying costs, whereupon he shall have any counsel that the court assigns him and shall have from all officers all needful services and process, *including the preparation of necessary transcripts for appeal,* without any fees, except such as are included in the costs recovered from the adverse party, *and shall not be required to post*

any bond except in an amount and manner reasonable under the circumstances of his poverty.

(2) A "poor person" means a person who is unable to pay the costs and fees of the proceeding in which he is involved without depriving himself or his dependants of the necessities of life, including food, shelter or clothing.

(3) Application to proceed without payment of costs and fees, pursuant to subsection (1) herein, shall be made by motion supported by the affidavit of the applicant stating the reasons that he is unable to pay the costs and fees or give security therefor.

Section 474. KRS 500.090 is amended to read as follows:

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

(b) Property which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to the general fund of *the state.*

[:1. The state, if the trial is held in circuit court;
2. The county, if the trial is held in county or quarterly court;
3. The city, if the trial is held in police or municipal court;
4. The metropolitan government, if the trial is held in the court of such jurisdiction.]

(c) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(d) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official state use. The expenses for keeping and transferring such property shall be paid by the state.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of *the state.*

[:(a) The state, if the trial is held in circuit court;
(b) The county, if the trial is held in county or quarterly court;
(c) The city, if the trial is held in police or municipal court;
(d) The metropolitan government, if the trial is held in the court of such jurisdiction.] This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section;

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his claim before disposition of the property pursuant to this section;

(b) Establishes his legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1) (b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before forfeiture of any property under this section it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made, or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

SECTION 475. KRS CHAPTER 23A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) The circuit court is a court of general jurisdiction; it has original jurisdiction of all justiciable causes not exclusively vested in some other court.

(2) The circuit court has appellate jurisdiction as specified in this Act.
(3) The circuit court is a court of record and of continuous session.

SECTION 476. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
The state is divided into judicial circuits, each to be composed of the following counties:
(1) First Judicial Circuit. Ballard, Carlisle, Fulton and Hickman.
(2) Second Judicial Circuit. McCracken.
(3) Third Judicial Circuit. Christian.
(4) Fourth Judicial Circuit. Hopkins.
(5) Fifth Judicial Circuit. Crittenden, Union and Webster.
(6) Sixth Judicial Circuit. Daviess.
(7) Seventh Judicial Circuit. Logan and Todd.
(8) Eighth Judicial Circuit. Warren.
(9) Ninth Judicial Circuit. Hardin.
(10) Tenth Judicial Circuit. Hart, Larue and Nelson.
(11) Eleventh Judicial Circuit. Green, Marion, Taylor and Washington.
(12) Twelfth Judicial Circuit. Henry, Oldham and Trimble.
(13) Thirteenth Judicial Circuit. Garrard, Jessamine and Lincoln.
(14) Fourteenth Judicial Circuit. Bourbon, Scott and Woodford.
(15) Fifteenth Judicial Circuit. Carroll, Grant and Owen.
(16) Sixteenth Judicial Circuit. Kenton.
(17) Seventeenth Judicial Circuit. Campbell.
(18) Eighteenth Judicial Circuit. Harrison, Nicholas, Pendleton and Robertson.
(19) Nineteenth Judicial Circuit. Bracken, Fleming and Mason.
(20) Twentieth Judicial Circuit. Greenup and Lewis.
(21) Twenty-first Judicial Circuit. Bath, Menifee, Montgomery and Rowan.
(22) Twenty-second Judicial Circuit. Fayette.
(23) Twenty-third Judicial Circuit. Estill, Lee and Owsley.
(24) Twenty-fourth Judicial Circuit. Lawrence, Johnson and Martin.
(25) Twenty-fifth Judicial Circuit. Clark and Madison.
(26) Twenty-sixth Judicial Circuit. Harlan.
(27) Twenty-seventh Judicial Circuit. Knox and Laurel.
(28) Twenty-eighth Judicial Circuit. Pulaski and Rockcastle.
(29) Twenty-ninth Judicial Circuit. Adair, Casey, Cumberland and Monroe.
(30) Thirtieth Judicial Circuit. Jefferson.
(31) Thirty-first Judicial Circuit. Floyd.
(32) Thirty-second Judicial Circuit. Boyd.
(33) Thirty-third Judicial Circuit. Perry.
(34) Thirty-fourth Judicial Circuit. Whitley and McCreary.
(35) Thirty-fifth Judicial Circuit. Pike.
(36) Thirty-sixth Judicial Circuit. Magoffin and Knott.
(37) Thirty-seventh Judicial Circuit. Carter, Elliott and Morgan.
(38) Thirty-eighth Judicial Circuit. Butler, Edmonson, Ohio and Hancock.
(39) Thirty-ninth Judicial Circuit. Breathitt, Wolfe and Powell.
(40) Fortieth Judicial Circuit. Clinton, Russell and Wayne.
(41) Forty-first Judicial Circuit. Clay, Jackson and Leslie.
(42) Forty-second Judicial Circuit. Calloway and Marshall.
(43) Forty-third Judicial Circuit. Barren and Metcalfe.
(44) Forty-fourth Judicial Circuit. Bell.
(45) Forty-fifth Judicial Circuit. Muhlenberg and McLean.
(46) Forty-sixth Judicial Circuit. Breckinridge, Grayson, and Meade.
(47) Forty-seventh Judicial Circuit. Letcher.
(48) Forty-eighth Judicial Circuit. Franklin.
(49) Forty-ninth Judicial Circuit. Allen and Simpson.
(50) Fiftieth Judicial Circuit. Boyle and Mercer.
(51) Fifty-first Judicial Circuit. Henderson.
(52) Fifty-second Judicial Circuit. Graves.
(53) Fifty-third Judicial Circuit. Shelby, Anderson and Spencer.
(54) Fifty-fourth Judicial Circuit. Boone and Gallatin.
(55) Fifty-fifth Judicial Circuit. Bullitt.

(56) Fifty-sixth Judicial Circuit. Caldwell, Livingston, Lyon and Trigg.

SECTION 477. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
Each judicial circuit shall have one (1) circuit judge, except as otherwise provided.

SECTION 478. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the circuit court:

(1) Second Judicial Circuit.
(2) Sixth Judicial Circuit.
(3) Eighth Judicial Circuit.
(4) Ninth Judicial Circuit.
(5) Seventeenth Judicial Circuit.
(6) Thirty-second Judicial Circuit.
(7) Thirty-fifth Judicial Circuit.
(8) Forty-eighth Judicial Circuit.

SECTION 479. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
The Sixteenth Judicial Circuit is entitled to four (4) judges and shall have four (4) numbered divisions of the circuit court.

SECTION 480. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
The Twenty-second Judicial Circuit is entitled to six (6) judges and shall have six (6) numbered divisions of the circuit court.

SECTION 481. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
The Thirtieth Judicial Circuit is entitled to sixteen (16) judges and shall have sixteen (16) numbered divisions of the circuit court.

SECTION 482. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
(1) A direct appeal may be taken from district court to circuit court from any final action of the district court.

(2) The circuit court may issue all writs necessary in aid of its appellate jurisdiction, or the complete determination of any cause within its appellate jurisdiction.

SECTION 483. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:
(1) The sheriff of the county in which the circuit court is sitting shall provide such deputies and ordinary equipment as the chief circuit judge shall deem necessary to provide security services to the court and its facilities.

(2) The sheriff shall be compensated for these duties at rates to be determined by law.

SECTION 484. KRS CHAPTER 23A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:
The following actions may be brought in the Franklin Circuit Court, or in any other circuit court having venue:

(1) Actions to collect the revenue and all other claims, demands and penalties due the Commonwealth, or to have satisfaction made of judgments in favor of the Commonwealth, except those actions which are prosecuted by an appeal to the Kentucky board of tax appeals under the provisions of KRS 131.110 and KRS 131.340.

(2) Actions against persons required to collect money due the Commonwealth, to pay money into the state treasury, or to do any other act connected with the payment of money into the state treasury after it has been collected, and against the sureties, heirs, devisees or representatives of such persons.

(3) Actions to surcharge and correct fee bills, accounts and settlements, with their debits and credits, and all claims against the treasury allowed and approved by any court in the Commonwealth to any person.

(4) Actions to recover any fraudulent, erroneous or illegal account, fee bill, charge, credit or claim approved and allowed or paid out of the treasury to any person.

(5) The defendant in any action brought in Franklin Circuit Court under the provisions of this statute shall at any time upon proper motion have a change of venue to the county in which he resides or his principal office or place of business is located at no cost to the defendant in Franklin Circuit Court.

Section 485. The following KRS chapters and sections are repealed: Chapters 23-27, Chapters 28-29, KRS 61.140, 64.011, 64.020, 64.030, 64.220, 64.230, 64.240, 64.255, 64.257, 64.262, 64.270, 64.275, 64.280, 64.570, 67A.080, 72.072, 83.600, 86.210, 142.011, 156.144, 156.146, 203.510, 208.040, 208.050, 208.290, 208.390, 208.555, 268.050, 268.100, 268.110, 268.120, 268.300, 268.310, 277.340, 383.040, 383.050, 383.060, 383.061, 383.062, 383.063, 383.064, 383.065, 383.066, 383.067, 383.068, 383.225, 383.265, 387.110, 395.525, 405.090, 405.100, 405.110, 405.120, 417.019, 421.045, 426.070, 426.670, 431.110, 432.260, 439.070, 439.175, 439.530, 451.010, 451.020, 451.025, 451.060, 451.070, 451.210, 451.220, 452.166, 452.170, 452.180, 452.340, 452.360, 454.075.

Section 486. Effective dates.

(1) The following sections shall become effective at the normal date for legislation passed at the 1976 Extraordinary Session: Sections 2, 7, 8-10, 17, 36, 52, 54, 60, 69, 125, 132, 133, 422, 472.

(2) The following sections shall become effective July 1, 1977: Sections 4, 13, 25, 27, 33, 38, 39, 41, 43, 46, 159, 165, 204, 277.

(3) The following sections shall become effective January 2, 1978: Sections 1, 3, 5, 6, 11-12, 14-16, 18-24, 28-32, 34-35, 37, 40, 42, 44-45, 47-51, 53-59, 61-68, 70-124, 126-131, 135-158, 160-203, 205-474.

(4) The following repealer sections shall become effective at the normal date for legislation passed at the 1976 Extraordinary Session: KRS 23.040, 23.080, 23.190, 23.230, 23.260, 23.290, 24.046, 24.048, 24.049, 24.068, 24.075, 24.170, 24.180, 24.190, 24.200, 24.210, 24.240, 24.250, 24.260.

(5) The following repealer sections shall become effective July 1, 1977: KRS 23.060, 23.085, 23.090, 23.100, 24.010, 24.051, 24.065, 24.265, 24.270, 28.280, 28.410, 28.420, 28.430, 28.435, 28.440, 28.450, 28.460, 28.480, 28.500, 28.610, 28.620, 28.630, 28.640, 28.650, 28.652, 28.654, 28.656, 28.658, 28.660, 28.665, 28.670, 64.011, 64.020, 64.030, 64.570.

(6) The following repealer sections shall become effective January 2, 1979: KRS 23.010, 23.020, 23.030, 23.032, 23.035, 23.045, 23.055, 23.070, 23.091, 23.095, 23.110, 23.120, 23.125, 23.130, 23.140, 23.145 23.150, 23.160, 23.170, 23.180, 23.220, 23.270, 23.280, 24.040, Chapter 25, Chapter 26, Chapter 27, KRS 28.220, 28.290, 28.320, 28.470, 28.510, 28.990, Chapter 29, KRS 61.140, 64.220, 64.230, 64.240, 64.255, 64.257, 64.262, 64.270, 64.275, 64.280, 64.570, 67A.080, 72.072, 83.600, 86.210, 142.011, 156.144, 156.146, 203.510, 208.040, 208.050, 208.290, 208.390, 208.555, 268.050, 268.100, 268.110, 268.120, 268.300, 268.310, 277.340, 383.040, 383.050, 383.060, 383.061, 383.062, 383.063, 383.064, 383.065, 383.066, 383.067, 383.068, 383.225, 383.265, 387.110, 395.525, 405.090, 405.100, 405.110, 405.120, 417.019, 421.045, 426.070, 426.670, 431.110, 432.260, 439.070, 439.175, 439.530, 451.010, 451.020, 451.025, 451.060, 451.070, 451.210, 451.220, 452.166, 452.170, 452.180, 452.340, 452.360, 454.075.

(7) The provisions of KRS 64.010 shall stand repealed as to circuit clerks and actions in circuit court July 1, 1977 and as to other clerks and courts on January 2, 1978.

(8) The provisions of KRS 28.010 to 28.210 shall stand repealed as to circuit clerks and actions in circuit court July 1, 1977 and as to other clerks and courts on January 2, 1978.

The Committee Amendment to the House Committee Substitute for **SB 15** is as follows:

Amend printed copy of House Committee Substitute for Senate Bill 15 on page 219, line 13, delete "["; insert "*and district*" following "circuit";

and on page 219, line 14, add " [" before the word "and";

and on page 228, line 17, delete "judgment" and insert in lieu thereof "decision";

and on page 252, line 26, delete "twenty-first" and insert in lieu thereof "eighteenth";

and on page 259, line 24, by deleting "*urban-county government*"; and at the beginning of line 25 by adding the words "*or in counties containing an urban-county government, the mayor*";

and on page 496, delete lines 15 through 26;

and on page 497, delete full page;

and on page 498, delete full page;

and on page 499, delete full page;

and on page 500, delete line 1;

and on page 558, following line 9, add the following:

"(4) The circuit court may be authorized by law to review the actions or decisions of administrative agencies, special districts or boards. Such review shall not constitute an appeal but an original action."

and on page 563, delete lines 23 and 24 and insert in lieu thereof:

"SECTION 484. A NEW SECTION OF KRS CHAPTER 452 IS CREATED TO READ AS FOLLOWS:"

and on page 564, line 24, delete "at anytime upon proper motion" and insert in lieu thereof "upon proper motion at anytime prior to submission for judgement";

and on page 565, after line 1, by adding the following:

"Section 485. KRS 142.030 is amended to read as follows:

There is hereby levied upon conviction in each criminal case carrying a fine a tax of three dollars and fifty cent ($3.50). The funds raised by the aforesaid tax shall be paid into the state treasury by the circuit clerk at the same time that he pays into the state treasury fines and forfeitures and the funds shall become a part of the General Fund of the Commonwealth. [(1) To provide the revenue necessary to carry out the provisions of KRS 64.510 and 64.515, a tax of three dollars and fifty cent ($3.50) is hereby levied upon conviction in each criminal case carrying a fine where the fine is paid into the state treasury. The funds raised by the aforesaid tax shall be paid into the state treasury, and shall be deposited into a revolving fund which hereby is created and designated the commonwealth's attorneys' expense account, and from which fund the appropriations hereunder shall be disbursed.

(2) Any surplus in exess of forty thousand dollars ($40,000) which shall have accumulated to the commonwealth's attorneys' expense account at the close of any fiscal year shall be transferred to and become a part of the general fund of the commonwealth.]

SECTION 486. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

For the purpose of Sections 486 through 490, inclusive of this Act, the regular county judge, the county judge pro tem, or other persons designated to serve in the line of succession during an emergency shall be deemed "absent" when he is outside the county at the time of the occurence or declaration of the emergency and is unable to return; and shall be deemed "disabled" when sick, injured or mentally incompetent to perform the duties.

SECTION 487. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

When the absence of disability of the duly elected county judge of any county shall prevent his serving in office during an emergency involving national and state defense, the duties of the county judge shall be administered temporarily by the county judge pro tem, if one has been appointed by the county judge and is actively serving as such.

SECTION 488. A NEW SECTION OF KRS CHAPTER 67 is created to read as follows:

In any county where no county judge pro tem has been appointed by the county judge upon June 18, 1970, then the county judge of such county shall appoint a county judge pro tem for the purpose of preparing for such an emergency as is set forth in Section 47.

SECTION 489. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

If neither the county judge nor the county judge pro tem is able to serve in the office by reason of absence or disability, then the duties of the county judge shall be assumed temporarily by a member of the fiscal court selected for this purpose by the fiscal court, provisions of subsection (2) of KRS 61.080 to the contrary notwithstanding.

SECTION 490. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Any of the persons designated herein to serve in the line of succession to the county judge during such state of emergency shall occupy and serve in the office of county judge:

(1) Only until, if and when, the regular county judge should return to the county from absence during the emergency or should recover from disability; or

(2) Until the governor of the Commonwealth is able to make an appointment of a successor to the regular county judge; or

(3) Until the termination of the state of emergency, whichever should occur soonest."

and on page 565, line 2, to delete "485" and insert in lieu thereof "491";

and on page 565, line 6, following "142.011" to add "192.040";

and on page 565, line 17, delete "486" and insert in lieu thereof "492";

and on page 566, line 2, following "205.474" to add ", 485-490"

The Committee on Judiciary-Statutes reported **SB 3** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 3, AN ACT relating to wills and trusts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 394.330 is amended to read as follows:

(1) A will shall be construed, with reference to the real and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears in the will.

(2) Notwithstanding the provisions of subsection (1), the reference in a will or trust providing the spouse with the maximum amount of property qualifying for the marital deduction allowable by Federal law shall be the amount provided by Section 2002(a) of the Federal Tax Reform Act of 1976 if subsections 2002(d)(1)(B)(i), (ii) and (iii) of the Federal Tax Reform Act of 1976 are met.

The Committee on State Government reported **SB 17** with the the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 17, AN ACT relating to the Court House District in Campbell County.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

In all counties containing a city of the second class, which at the time of the effective date of this Act had a courthouse district tax in effect, the fiscal court is authorized to levy a tax, to be imposed county wide, of not more than 2.9 cents per each $100 property valuation for the purpose of constructing, repairing, reconstructing or extending, and maintaining a courthouse for Campbell County, and of leasing facilities for such purpose. This courthouse tax is hereby declared to be an exception to the county roll back law as expressed in KRS 68.245.

Section 2. All of the special acts relating to the Campbell County Courthouse District and Commission are hereby expressly repealed. The Act of April 17, 1882 (Acts 1881-82, p. 569, Ch. 1107); the Act of March 13, 1886 (Acts 1885-86, p. 667, Ch. 232); Acts of 1898, Ch. 50, p.p. 129-131 and Acts of 1966, S.B. 183, Ch. 210 are hereby repealed.

The Committee on Rules reported **HB 43, HB 47, HR 25, HR 27, SB 1, SB 6, SB 12, SB 16, SB 18,** and **SB 15** have been posted for passage in Orders of the Day, December 17, 1976.

Adjournment

Representative B. Richardson moved that the House adjourn until 12 noon, Friday, December 17, 1976.

The motion to adjourn was adopted by voice vote.

FRIDAY, DECEMBER 17, 1976

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The roll was called. All present except Representatives Head and Maynard.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of December 16, 1976, be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

HB 8 and **HB 18** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HR 37, by Representatives DeMarcus and B. Richardson: A RESOLUTION praising Representative Albert Robinson and expressing extreme displeasure with the London Sentinel-Echo and its publisher Luke Keith, Jr.

Representative Givhan moved that the rules be suspended for a roll call to show co-sponsors of **HR 37.** Agreed.

The following members voted to co-sponsor **HR 37:** **B.** Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Boatwright, Brown, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Dietz, Doss, Dunn, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, Kleier, LeMaster, Little, Mann, May, McBride, McGill, McNutt, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Wright, Yates.

HR 38, by Representative Hancock: A RESOLUTION requesting a study of the demand for and prospective costs of military service credit for members of Kentucky retirement systems.

Calender

SB 23, SB 20, SB 24, SB 3, and **SB 17** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

Representative DeMarcus moved that the rules be suspended for the purpose of acting on a Resolution. Agreed.

Representative DeMarcus moved the adoption of the following **HR 37:**

HR 37, A RESOLUTION praising Representative Albert Robinson and expressing extreme displeasure with the London Sentinel-Echo and its publisher Luke Keith, Jr.

WHEREAS, Representative Albert Robinson has distinguished himself in the Kentucky House of Representatives as one of the most hard working, intelligent and conscientious members now serving in that esteemed body; and

WHEREAS, no other member has devoted more time and effort to represent his constituents and see that their needs are addressed by the General Assembly; and

WHEREAS, Representative Robinson has appeared on numerous occasions before the House Committee on Judiciary-Courts to argue the merits of establishing two district judgeships in the twenty-seventh judicial district comprised of Knox and Laurel Counties; and

WHEREAS, the members of the House Judiciary-Courts Committee believe that Representative Robinson made as strong a case for having two district judges in the twenty-seventh judicial district as could have been made by a member of the General Assembly; and

WHEREAS, the committee did not see fit to grant Representative Robinson's request due entirely to projected caseload figures which did not appear to justify a second judge in the twenty-seventh district; and

WHEREAS, despite his tireless efforts the London Sentinel-Echo and its publisher, Mr. Luke Keith, Jr., have attacked Representative Robinson and blamed him for the failure of the House of Representatives to approve two district judgeships for the twenty-seventh judicial district; and

WHEREAS, the published criticism of Representative Robinson by Mr. Keith and the Sentinel-Echo represents one of the most malicious and irresponsible journalistic acts ever perpetrated against a member of the General Assembly; and

WHEREAS, this malicious and irresponsible action was compounded by Mr. Keith's threat to withhold his newspaper's editorial endorsement of Representative Robinson in the future because the twenty-seventh district failed to receive two district judgeships;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the House herein assembled do find the statements of Mr. Keith and the Sentinel-Echo absolutely false and finds them to be malicious attempts to discredit a member of this body who is respected by both Democrats and Republicans as evidenced by the signatures on this resolution of both the majority and minority House floor leaders.

Section 2. That the Clerk of the House is directed to send a copy of this resolution, and the roll call vote thereon, to the editor and publisher of the Sentinel-Echo and ask that the newspaper's false and malicious statements about Representative Robinson be publicly retracted in the newspaper's next edition.

Representative Givhan moved that the rules be suspended for a roll call to show co-sponsors of **HR 37.** Agreed.

The following members voted to co-sponsor **HR 37:** Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Boatwright, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBride, McGill, McNutt, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Wright, Yates.

On the roll call the vote was yeas 87-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBride, McGill, McNutt, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richardson, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HR 37 was adopted.

Representative DeMarcus moved that the vote by which **HR 37** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

The following members filed Floor Amendments to Bills and Resolutions: Representative Mann, No. 1 and Title Amendment to **SB 17;** Representative Romines, No. 11 to **SB 12;** Representative Gray, No. 1 to **HB 43;** Representative LeMaster, No. 4 to **SB 15.**

Representative Hancock moved that the rules be suspended to act upon a resolution and for the purpose of making a motion thereafter. Agreed.

Representative Hancock moved the adoption of the following **HR 38:**

HR 38, A RESOLUTION requesting a study of the demand for and prospective costs of military service credit for members of Kentucky retirement systems.

WHEREAS, the 1974 General Assembly established a program to permit members of the Kentucky Employes Retirement System, State Police Retirement System and County Employes Retirement System who are eligible for retirement or who are vested in their respective systems to receive current service credit for a maximum of four years of military service; and

WHEREAS, implementation of the military service credit program is dependent upon the availability of funds appropriated by the General Assembly for that purpose; and

WHEREAS, the request for an additional appropriation for the military service credit program contained on page 9 of the 1976 Extraordinary Session Executive Budget states that, "it is difficult to estimate the number of members still seriously interested in purchasing military credit," but notes that there is evidence of continuing demand for the program; and

WHEREAS, the General Assembly cannot assess the need for the military service credit program nor adequately evaluate requests for appropriations for the program without information concerning the demand for and prospective costs of the program;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Board of Trustees of the Kentucky Retirement Systems is requested to conduct, or cause to be conducted, the necessary survey and audit to determine the number of persons who became members of the Kentucky Employes Retirement System, State Police Retirement System, or County Employes Retirement System on or before December 31, 1976, who are eligible, or may become eligible to participate in the military service credit program established by KRS 61.555(4) and (5), KRS 16.541(3), and KRS 78.545(6). The Board is further requested to determine the proportion of those eligible members who are interested in participating in the program and to determine the cost to the state of funding the military service credit program for those eligible members who are interested in participating in the program.

Section 2. That the Board of Trustees of the Kentucky Retirement Systems should report the findings of the study requested by Section 1 to the 1978 General Assembly.

HR 38 was adopted by voice vote.

Representative Hancock moved that the rules be suspended to recommit a Bill. Agreed.

Representative Hancock moved that **HJR 25** be recommitted to the Committee on Appropriations and Revenue. Agreed.

The following members made requests in regard to voting: Representative Hancock, "nay" on **HB 32;** Representative Priddy, change from "yea" to "nay" on **HB 20;** Representative King, "yea" on **HB 16;** "yea" on **HB 14;** "yea" on **HR 37;** Representative Nett, "yea" on **HR 37;** Representative Hopkins, "nay" on Amendment No. 2 to **HB 21;** Representative McBee, "yea" on **HR 37;** Representative Denham, "yea" on **HR 37;** Representatives Hurst, Blythe, R. Turner, "yea" on **HR 37;** Representative Hughes, "nay" on **HR 26.**

Senate Message

Announcing passage of **HB 17** with Senate Committee Substitute and Amendments.

Motions, Petitions, and Communications (continued)

Representative Mann moved that the vote by which **HB 19** was tabled be reconsidered. Agreed.

On the roll call the vote was yeas 47-Ackerson, B. Adams, J. Allen, Bendl, Bennett, Benson, Blair, Boatwright, Burnette, Clarke, Craddock, Crupper, DeFalaise, DeMarcus, Dietz, Donnermeyer, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Hancock, Hardwick, Holloway, Hopkins, Hurst, Jones, Kleier, Mann, Mason, Muncy, O'Brien, Pearl, Priddy, Rattliff, Romines, Sale, Schmidt, Siemens, Siler, Tobin, Thomas, Wible, Wooden, Wright, Yates. Nays 15-Beshear, Bruce, Deskins, Guenthner, Holbrook, Hughes, Imes, Kenton, King, McGill, McNutt, Nett, Overstreet, Richards, Stephens.

The motion that **HB 19** be removed from the table was rejected.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 10** had been examined and found correctly enrolled. **SB 10** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Motions, Petitions, and Communications (continued)

Representative Hopkins moved that the rules be suspended to act upon a resolution. Agreed.

Representative Hopkins moved that a call of the roll be taken to show co-sponsors of **HR 36.** Agreed.

The following members voted to co-sponsor **HR 36:** Ackerson, Blythe, Doss, Guenthner, Hardwick, Holbrook, Hopkins, Morris, Overstreet, Rattliff, Schmidt.

Representative Hopkins moved the adoption of the following **HR 36:**

HR 36, A RESOLUTION recommending continuation of the Governor's Commission on Workmen's Compensation.

WHEREAS, the deliberations of this extraordinary session concerning the question of workmen's compensation are not designed to comprehensively address the problem; and

WHEREAS, the State Supreme Court said in Apache Coal Company v. Fuller, that Kentucky's workmen's compensation "statutes rival the Internal Revenue Code in complexity and contradiction"; and

WHEREAS, the Commonwealth's work-force, commercial interests, and manufacturing interests are all directly affected by this issue; and

WHEREAS, Governor Julian Carroll appointed an outstanding and competent group of individuals to develop solutions to immediate problems in this area;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby strongly recommend to Governor Carroll that the Commission on Workmen's Compensation continue to meet and review the Kentucky Revised Statutes as relates to workmen's compensation.

Section 2. That the commission be directed to recommend further improvements in Kentucky's statutes in this area and that the commission make a final report to the Governor, the General Assembly, and the citizens of the Commonwealth prior to the 1978 Regular Session of the Kentucky General Assembly.

Section 3. That the Clerk of the House of Representatives be directed to forward a copy of this resolution to the Governor of this great Commonwealth.

HR 36 was adopted by voice vote.

Representative Kleier moved that **SB 12** be taken from Orders of the Day and recommitted to the Committee on Health and Welfare.

The Speaker ruled a motion for suspension of the rules would have to be made and agreed to before the motion to recommit could be made.

Representative Hughes requested that he be recorded as voting "yea" on the following Bills and Resolutions: **SR 35, HB 27, HB 35, SB 5, HB 10, HB 16, HB 23, HB 41, HB 42, SB 10, SJR 5, HB 4, HB 20.**

Recess

Representative Richardson moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

SJR 5, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the following Floor Amendment No. 2 to **SJR 5:**

Amend printed copy of Senate Joint Resolution 5 on page 2, line 21, after the word "the" delete the words "Governor shall appoint" and insert in lieu thereof the words "Chairman, or Vice Chairman in the absence of the Chairman, of each such committee of the General Assembly may designate";

and on page 3, line 1, after the word "One" delete the remainder of that line in its entirety;

and on page 3, delete lines 2 through 4 in their entirety;

and on page 3, line 5, delete everything on that line before the "(1)";

and on page 3, line 24, delete the word "November" and insert in lieu thereof the word "October".

Agreed.

Representative Lindsay moved the adoption of the Committee Admendment No. 2 to **SJR 5.** Agreed.

Representative Romines moved the adoption of the following Floor Amendment No. 1 to **SJR 5.**

Amend printed copy of Senate Joint Resolution 5 on page 4, by inserting after line 14 the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Every city, county and urban county government shall send to the commissioner of the department for local government a copy of each ordinance or resolution in effect within its jurisdiction on the effective date of this Act and a copy of every ordinance or resolution enacted after the effected date of this Act shall be forwarded to the Attorney General's office for interpretation of constitutionality.

(2) If the commissioner of the department for local government finds that the ordinance or resolution may be unconstitutional, he shall request the office of the attorney general to review such ordinance or resolution and to advise him as to its constitutionality. The office of the attorney general shall forward a copy of its opinion to the commissioner of the department for local government and to the governing body of the city, county or urban county government whose resolution or ordinance is being questioned."

Representative Guenthner moved that Floor Amendment No. 1 to **SJR 5** be laid on the table.

On the roll call the vote was yeas 6-Ackerson, W. Allen, Guenthner, Holbrook, Holloway, Mason. Nays 68-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, DeFalaise, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Gray, Hancock, Hardwick, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, May, McBride, McGill, McNutt, Muncy, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Stephens, Tobin, J. R. Turner, R. A. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates.

The motion that Floor Amendment No. 1 be laid on the table was rejected.

Representative Romines moved the adoption of the Floor Anendment No. 1 to **SJR 5.** Rejected.

Representative Lindsay moved that **SJR 5,** as amended, be passed.

On the roll call the vote was yeas 59-B. Adams, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Blythe, Bruce, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Hancock, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, McBride, McGill, McNutt, Morris, O'Brien, Priddy, Richards, B. Richardson, Romines, Sale, Siemens, Stephens, Tobin, Thomas, Vincent, Wells, White, Wible, Yates. Nays 25-Ackerson, J. Allen, W. Allen, Blandford, Boatwright, Brinkley, Burnette, Crupper, DeMarcus, Denham, Dietz, Floyd, Guenthner, Holbrook, Holloway, Hopkins, McBee, Muncy, Overstreet, Pearl, Rattliff, P. Richardson, Siler, R. A. Turner, Wright.

SRJ 5, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SJR 5,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HR 27, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Amendment No. 1 to **HR 27.** Agreed.

Representative Donnermeyer moved the adoption of the Committee Amendment No. 2 to **HR 27.** Agreed.

Representative Donnermeyer moved that **HR 27,** as amended, be adopted.

On the roll call the vote was yeas 73-B. Adams, A. S. Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Gray, Hancock, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, King, LeMaster, Little, Mann, May, McBee, McBride, McGill, McNutt, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Thomas, R. A. Turner, Wells, White, Wible, Wooden, Yates. Nays 2-Mason, Wright.

HR 27, as amended, was adopted and the title agreed to.

Representative Donnermeyer moved that the vote by which **HR 27,** as amended, was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **HB 41** be recommitted to the Committee on Counties and Special Districts.

On the roll call the vote was yeas 59-Ackerson, J. Allen, W. Allen, Bendl, Benson, Beshear, Blair, Blandford, Blume, Blythe, Boatwright, Burnette, Carpenter, Clapp, Craddock, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gray, Guenthner, Hancock, Hopkins, Hughes, Hurst, Kenton, Kidd, Little, McBee, McBride, McGill, McNutt, Morris, Nett, O'Brien, Overstreet, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Sale, Schmidt, Siemens, Stephens, Tobin, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 6-Bruce, Cyrus, DeFalaise, Mann, Pearl, Thomas.

The motion that **HB 41** be recommitted to the Committee on Counties and Special Districts was adopted.

Representative B. Richardson moved that **HB 47** be recommitted to the Committee on Judiciary—Statutes. Agreed.

HB 43 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that the rules be suspended to waive the time for filing Floor Amendments.

On the roll call the vote was yeas 40-A. S. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blair, Blume, Brinkley, Bruce, Clapp, Craddock, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Givhan, Gray, Isler, Kenton, Kidd, King, Kleier, Little, Mason, McGill, Muncy, Nett, Priddy, B. Richardson, Romines, Siemens, Thomas, Vincent, Wible, Wooden. Nays 11-W. Allen, Denham, Guenthner, Holloway, Hopkins, Hughes, McNutt, Pearl, Robinson, Stephens, White.

The motion that the rules be suspended was rejected.

Representative Gray moved that consideration of **HB 43** be deferred and that it retain its position in Orders of the Day.

On the roll call the vote was yeas 45-A. S. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blume, Boatwright, Brinkley, Bruce, Clapp, Clarke, Crupper, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Givhan, Gray, Hancock, Imes, Isler, Kenton, Kidd, King, Kleier, Little, Mann, McBee, McGill, Muncy, Nett, Priddy, Richards, Romines, Siemens, Siler, Thomas, Wible, Wooden. Nays 33-Ackerson, B. Adams, W. Allen, Arnold, Blair, Blythe, Carpenter, Craddock, DeFalaise, DeMarcus, Denham, Foster, Guenthner, Holbrook, Holloway, Hopkins, Hughes, Hurst, Mason, McBride, McNutt, Morris, O'Brien, Pearl, Rattliff, B. Richardson, Robinson, Sale, Schmidt, Stephens, Tobin, R. A. Turner, White.

The motion that consideration of **HB 43** be deferred and that it retain its position in Orders of the Day was adopted.

SB 6 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **SB 6** be passed.

On the roll call the vote was yeas 83-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 7-Blair, DeFalaise, Hancock, Kleier, Mann, Tobin, Thomas.

SB 6 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 6** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **HB 2, HB 6, HB 34, HB 15** with Amendments, and HB 21 with Amendments.

Orders of the Day (continued)

SB 16 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 80-Ackerson, B. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Floyd, Foster, Gay, Givhan, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, R. A. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 5-Deskins, Doss, Fitzgerald, Gray, Little.

SB 16 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 16** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 18, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment No. 1 to **SB 18.** Agreed.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to **SB 18:**

Amend printed copy of Senate Bill 18 on page 5, after line 23 by adding the following:

"Section 7. The county judge/executive shall receive an annual expense allowance of $3,600 for performing his duties and fulfilling his responsibilities in the administration of the local county road program. Payment shall be made quarterly in the amount of $900 per quarter, the first such payment to be made for the quarter ending March 31, 1978.";

And by renumbering the subsequent sections;

And on page 5, line 26 by deleting the word "seven" and inserting in lieu thereof the word "eight".

Agreed.

Representative Jones moved the adoption of the following Floor Amendment No. 2 to **SB 18:**

Amend printed copy of Senate Bill 18 on page 2, line 13, after the word Act insert: *, or his successor,*

On the roll call the vote was yeas 10-Ackerson, Crupper, Fitzgerald, Holbrook, Jones, LeMaster, Mason, Morris, P. Richardson, Tobin. Nays 65-B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Burnette, Clapp, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holloway, Hopkins, Hurst, Imes, Isler, Kenton, Kidd, Lindsay, Little, Mann, McBee, McBride, McGill, McNutt, Nett, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Sale, Schmdit, Stephens, R. A. Turner, Vincent, White, Wible, Wright.

The Floor Amendment No. 2 to **SB 18** was rejected.

Representative Beshear filed Floor Amendment No. 3 to **SB 18.**

Representative B. Richardson moved that the rules be suspended to allow the time limit to be waived for the filing of Amendment No. 3. Agreed.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 3 to **SB 18:**

Amend printed copy of Senate Bill 18 on page 6, line 3, by deleting "6" and inserting in lieu thereof "7"

Agreed.

Representative B. Richardson moved that **SB 18,** as amended, be passed.

On the roll call the vote was yeas 88-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Jones, Kenton, Kidd, King, LeMaster, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B.

Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 5-Imes, Kleier, Lindsay, Robinson, Stephens.

SB 18, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 18,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson filed Floor Amendments No. 5 and No. 6 to House Committee Substitute for **SB 15.**

SB 12, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved the adoption of the Committee Amendment No. 1 to **SB 12.**

Representative Kleier moved that **SB 12** be recommitted to the Committee on Health and Welfare.

The Speaker ruled according to Rule 40 there must be a suspension of rules to move for recommitment to the Committee on Health and Welfare.

Representative Kleier moved that the rules be suspended for the purpose of recommitting **SB 12** to the Committee on Health and Welfare.

On the roll call the vote was yeas 28-Ackerson, Bennett, Blythe, Cyrus, Dawahare, DeMarcus, Denham, Dunn, Fitzgerald, Givhan, Guenthner, Hancock, Hughes, King, Kleier, Lindsay, Little, McBride, Nett, O'Brien, Priddy, Rattliff, Robinson, Romines, White, Wooden, Wright, Yates. Nays 17-Benson, Blair, Blume, Clarke, Cooper, Craddock, Hardwick, Holbrook, Jones, Kidd, Mason, McGill, McNutt, B. Richardson, Siemens, R. A. Turner, Vincent.

The motion that the rules be suspended was rejected.

Representative Wooden moved that **SB 12** be recommitted to the Committee on Counties and Special Districts.

Representative Bendl moved that the House recess for a meeting of the Jefferson County Delegation.

On the roll call the vote was yeas 38-Ackerson, A. S. Adams, Arnold, Bendl, Bennett, Blandford, Blythe, Brinkley, Brown, Bruce, Burnette, Carpenter, Crupper, Cyrus, Dawahare, Denham, Deskins, Doss, Dunn, Fitzgerald, Givhan, Gray, Guenthner, Hancock, Hughes, Kleier, Lindsay, Mason, McBee, O'Brien, Priddy, P. Richardson, Romines, Sale, Thomas, Wible, Wright, Yates. Nays 41-J. Allen, W. Allen, Benson, Bevins, Blume, Clapp, Clarke, Cooper, Craddock, DeFalaise, DeMarcus, Donnermeyer, Foster, Freeman, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Little, Mann, McBride, McGill, McNutt, Nett, Pearl, Rattliff, B. Richardson, Schmidt, Siemens, Stewart, Tobin, J. R. Turner, R. A. Turner, Vincent, Wooden.

The motion to recess was rejected.

On the roll call the vote was yeas 30-Ackerson, Bennett, Blythe, Burnette, Cyrus, Dawahare, DeMarcus, Denham, Doss, Dunn, Fitzgerald, Floyd, Givhan, Gray, Guenthner, Holloway, Hughes, King, Kleier, McBride, Nett, O'Brien, Pearl, Priddy, Rattliff, Robinson, Romines, Wooden, Wright, Yates. Nays 45-J. Allen, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Clapp, Clarke, Cooper, Craddock, Crupper, Deskins, Dietz, Donnermeyer, Foster, Hancock, Holbrook, Imes, Isler, Jones, Kenton, Kidd, Little, Mann, Mason, McBee, McGill, McNutt, Muncy, Overstreet, Richards, B. Richardson, P. Richardson, Sale, Siemens, Stephens, Stewart, Tobin, J. R. Turner, R. A. Turner, Vincent, Wells, Wible.

The motion that **SB 12** be recommitted to the Committee on Counties and Special Districts was rejected.

On the roll call the vote was yeas 50-Ackerson, B. Adams, J. Allen, Bendl, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Clapp, Clarke, Cooper, Craddock, Cyrus, DeMarcus, Dietz, Donnermeyer, Doss, Dunn, Foster, Gray, Guenthner, Hancock, Holbrook, Holloway, Isler, Jones, Kenton, Kidd, King, Mann, Mason, McBee, McBride, McGill, McNutt, O'Brien, Richards, B. Richardson, P. Richardson, Sale, Siemens, Stewart, Tobin, J. R. Turner, R. A. Turner, Vincent, Wells, Wible. Nays 16-Bennett, Burnette, Dawahare, Denham, Fitzgerald, Hughes, Hurst, Kleier, Nett, Pearl, Priddy, Robinson, Romines, Wooden, Wright, Yates.

The Committee Amendment No. 1 to **SB 12** was adopted.

Representative Jones moved the adoption of the following Floor Amendment No. 6:

Amend printed copy of Senate Bill 12 on page 62, after line 18 and before line 19, by inserting the following new sections and renumbering the remaining sections accordingly:

"SECTION 29. A NEW SECTION OF KRS CHAPTER 318 IS CREATED TO READ AS FOLLOWS:

The secretary of the department shall, upon written request from a local board of health, authorize the local board of health to serve as its agent to issue plumbing installation permits for on-site sewage disposal systems within that area of local board jurisdiction. The permits issued by the local board of health shall comply with the requirements set down in KRS 318.134 and 318.160 and with the regulations established by the department relating to the issuance of permits for on-site sewage disposal systems. A permit issued under these provisions shall be deemed a permit issued by the department. The local board of health shall include in the written request a procedure for administering this section.

SECTION 30. A NEW SECTION OF KRS CHAPTER 318 IS CREATED TO READ AS FOLLOWS:

(1) If a proposed site fails to meet the criteria established by the department for a septic tank system, a permit shall be granted for an approved on-site sewage disposal system other than a septic tank, including modified subsurface systems, mechanical systems, and any other system appropriate to the individual characteristics of the site which will provide sewage treatment that meets established water quality criteria and health standards.

(2) The department shall include in the state plumbing code a listing of approved on-site sewage disposal systems other than septic tanks."

On the roll call the vote was yeas 82-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, J. R. Turner, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Denham.

The Floor Amendment No. 6 to **SB 12** was adopted.

Representative B. Adams moved the adoption of the Previous Question on **SB 12** as amended.

On the roll call the vote was yeas 23-B. Adams, Benson, Blume, Carpenter, Clapp, Cooper, Craddock, Dietz, Donnermeyer, Foster, Isler, Kidd, Little, May, McBee, McGill, McNutt, Muncy, B. Richardson, Tobin, J. R. Turner, Vincent, Wells. Nays 47-Ackerson, W. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blythe, Boatwright, Brinkley, Bruce, Burnette, Clarke, Cyrus, DeMarcus, Denham, Deskins, Dunn, Fitzgerald, Givhan, Gray, Guenthner, Holbrook, Holloway, Hopkins, Hughes, Hurst, King, Kleier, Lindsay, Mann, Mason, McBride, Morris, Nett, O'Brien, Pearl, Priddy, Romines, Sale, Siler, Stephens, Thomas, Wible, Wooden, Wright, Yates.

The motion that the Previous Question be adopted on **SB 12** as amended was rejected.

Representative Priddy moved the adoption of the following Floor Amendment No. 2 to **SB 12:**

Amend printed copy of Senate Bill 12 on page 62, after line 18 and before line 19, by creating a new section and renumbering the remaining sections accordingly:

"SECTION 29. A NEW SECTION OF KRS CHAPTER 107 IS CREATED TO READ AS FOLLOWS:

No increase in user fees shall be placed upon existing sewer users for the purpose of expansion of a wastewater collection project by a metropolitan sewer district."

On the roll call the vote was yeas 32-Ackerson, W. Allen, Bennett, Blythe, Burnette, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Doss, Fitzgerald, Floyd, Givhan, Gray, Holbrook, Hughes, Imes, Kleier, Lindsay, McBride, Nett, O'Brien, Pearl, Priddy, Robinson, Romines, Siler, Thomas, Wooden, Wright, Yates. Nays 42-B. Adams, J. Allen, Bendl, Benson, Beshear, Blandford, Blume, Bruce, Clapp, Clarke, Cooper, Craddock, Deskins, Dietz, Donnermeyer, Dunn, Foster, Guenthner, Isler, Jones, Kenton, Kidd, King, Little, Mann, Mason, McBee, McGill, McNutt, Richards, B. Richardson, P. Richardson, Sale, Schmidt, Siemens, Stephens, Tobin, J. R. Turner, Vincent, Wells, White, Wible.

The Floor Amendment No. 2 to **SB 12** was rejected.

Representative Yates moved the adoption of the following Floor Amendment No. 1 to **SB 12:**

Amend printed copy of Senate Bill 12 on page 23, line 23, by deleting the period and inserting after the word "*city*" the following: "*, and (c) if the majority of the voting benefited property owners in a Metropolitan Sewer District designated construction area or zone cast an affirmative vote for the wastewater collection project in an election held in accordance with statutes of the Commonwealth for general or special elections.*"

Representative Nett inquired if **SB 12** was germane to the call of the Extraordinary Session.

The Speaker ruled **SB 12** was germane to the call of the Extraordinary Session.

On the roll call the vote was yeas 31-Ackerson, B. Adams, W. Allen, Bennett, Burnett, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Dunn, Fitzgerald, Floyd, Givhan, Gray, Holbrook, Hopkins, Hughes, Kleier, LeMaster, Lindsay, McBride, O'Brien, Pearl, Priddy, Robinson, Romines, Stephens, Wooden, Wright, Yates. Nays 38-J. Allen, Bendl, Benson, Beshear, Bevins, Blume, Blythe, Clapp, Clarke, Cooper, Craddock, Deskins, Dietz, Donnermeyer, Doss, Foster, Guenthner, Imes, Isler, Jones, Kenton, Kidd, King, Mann, Mason, May McBee, McGill, McNutt, Nett, B. Richardson, Sale, Siemens, Tobin, J. R. Turner, Vincent, Wells, Wible.

The Floor Amendment No. 1 to **SB 12** was rejected.

Representative Ackerson moved the adoption of the Committee Amendment No. 2 to **SB 12.**

Representative Imes moved that the debate be limited to three minutes on each Amendment and five minutes on the Bill, according to Rule 13.

On the roll call the vote was yeas 54-J. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brown, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Foster, Gray, Hardwick, Holbrook, Imes, Isler, Jones, Kenton, Kidd, King, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Muncy, Nett, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siemens, Tobin, Thomas, J. R. Turner, Wells, White, Wible. Nays 24-Ackerson, B. Adams, W. Allen, Bennett, Blythe, Bruce, Burnette, Dawahare, Deskins, Doss, Dunn, Fitzgerald, Guenthner, Holloway, Hopkins, Hughes, Kleier, LeMaster, Morris, Romines, Stephens, Wooden, Wright, Yates.

The motion that the debate on **SB 12** and the amendments be limited according to Rule 13 was adopted.

On the roll call the vote was yeas 46-Ackerson, W. Allen, Arnold, Benson, Beshear, Bevins, Blythe, Boatwright, Burnette, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Dunn, Givhan, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Kleier, LeMaster, Lindsay, Mann, McBride, McNutt, Muncy, Nett, O'Brien, Pearl, Priddy, Richards, Robinson, Romines, Sale, Schmidt, Tobin, Thomas, White, Wible, Wooden, Wright, Yates. Nays 23-J. Allen, Bennett, Blandford, Blume, Bruce, Clapp, Clarke, Deskins, Donnermeyer, Doss, Imes, Isler, Kenton, King, Little, Mason, McBee, McGill, B. Richardson, Siemens, Stephens, J. R. Turner, Wells.

The Committee Amendment No. 2 to **SB 12** was adopted.

Representative Ackerson moved the adoption of the following Floor Amendment No. 7 to **SB 12:**

Amend printed copy of Senate Bill 12 on page 62, after line 18 and before line 19, by inserting a new section and renumbering the following sections accordingly:

"SECTION 29. A NEW SECTION OF KRS CHAPTER 107 IS CREATED TO READ AS FOLLOWS:

In a residential area, the health department shall require the property owner within six (6) months to dismantle and remove the equipment and facilities of a private treatment plant which no longer functions or is used for said purpose and to restore the property to a condition in keeping with the health and aesthetics of the neighborhood."

On the roll call the vote was yeas 25-Ackerson, W. Allen, Bennett, Blandford, Burnette, Dawahare, Denham, Dunn, Fitzgerald, Givhan, Gray, Guenthner, Hardwick, Holbrook, Hughes, Imes, Kleier, Lindsay, McBride, Pearl, Priddy, Romines, Wible, Wright, Yates. Nays 44-B. Adams, J. Allen, Arnold, Benson, Beshear, Bevins, Blume, Brinkley, Bruce, Clapp, Clarke, Cooper, Craddock, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Foster, Holloway, Hopkins, Isler, Jones, Kenton, Kidd, King, LeMaster, Mann, Mason, May, McBee, McGill, McNutt, Richards, B. Richardson, P. Richardson, Siemens, Stephens, Tobin, Thomas, J. R. Turner, Wells, White.

The Floor Amendment No. 7 to **SB 12** was rejected.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 16, SB 6, SB 8, HB 2, HB 6,** and **HB 34** had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 2, HB 6, and **HB 34** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Senate Message

SB 5 returned with the following letter:

The Senate has concurred in amendments 2, 4, and 5 to Senate Bill 5, but has refused to concur in amendment No. 6 and respectfully requests this Honorable Body to recede from that amendment.

Orders of the Day (continued)

The Speaker Pro Tempore assumed the Chair.

SB 12, continued.

Representative Hughes moved the adoption of the following Floor Amendment No. 4 to **SB 12.**

Amend printed copy of Senate Bill 12 on page 58, line 24, by deleting the words "*seven (7)*" and inserting in lieu thereof "*eight (8)*";

and on page 59, line 1, by deleting the words "*three (3)*" and inserting in lieu thereof "*four (4)*";

and on page 59, line 3, by deleting the words "*seven (7)*" and inserting in lieu thereof "*eight (8)*";

and on page 60, line 9, by inserting after "*1979*" and before the ";" the following: "*and one (1) member whose term shall expire on July 1, 1980*";

and on page 60, lines 9 and 10, by deleting the words "*term of this member*" and inserting in lieu thereof: "*terms of these two (2) members*".

Representative Wooden moved that Floor Amendment No. 4 to **SB 12** be laid on the table.

On the roll call the vote was yeas 20-W. Allen, Bennett, Burnette, Dawahare, Denham, Dunn, Fitzgerald, Givhan, Hughes, Kleier, Lindsay, McBride, Nett, Pearl, Priddy, Robinson, Romines, Wooden, Wright, Yates. Nays 50-B. Adams, J. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blandford, Blume, Brinkley, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, Deskins, Dietz, Donnermeyer, Doss, Foster, Guenthner, Holbrook, Holloway, Hopkins, Isler, Jones, Kidd, King, Little, Mann, Mason, May, McBee, McGill, McNutt, Morris, Richards, B. Richardson, P. Richardson, Schmidt, Siemens, Stephens, Tobin, Thomas, J. R. Turner, Vincent, Wells, White, Wible.

The motion that Floor Amendment No. 4 to **SB 12** be laid on the table was rejected.

On the roll call the vote was yeas 23-Ackerson, B. Adams, Bennett, Blandford, Brinkley, Burnette, Dawahare, DeMarcus, Dunn, Fitzgerald, Givhan, Guenthner, Holloway, Hughes, Hurst, Lindsay, May, McBride, O'Brien, Pearl, Priddy, Romines, Yates. Nays 40-J. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blume, Blythe, Clapp, Clarke, Cooper, Craddock, Cyrus, Deskins, Donnermeyer, Foster, Hopkins, Imes, Isler, Jones, Kidd, King, Little, Mann, Mason, McBee, McGill, McNutt, Richards, B. Richardson, P. Richardson, Siemens, Stephens, Tobin, J. R. Turner, Vincent, Wells, White, Wible, Wooden.

The Floor Amendment No. 4 to **SB 12** was rejected.

Representative Romines moved the adoption of the following Floor Amendment No. 10 to **SB 12:**

Amend printed copy of Senate Bill 12 on page 33, line 21, delete the word "*may*" and insert in lieu thereof: "*shall*";

and on page 33, line 22, delete the word "*certain*";

and on page 33, lines 23 and 24, by deleting those lines in their entirety and inserting in lieu thereof: "*until the collector portion of the project is completed and ready for use by the assessed property.*".

On the roll call the vote was yeas 27-Ackerson, W. Allen, Arnold, Bennett, Benson, Blandford, Bruce, Burnette, Cyrus, Dawahare, Denham, Dunn, Fitzgerald, Givhan, Gray, Holbrook, Hughes, Lindsay, McBride, Nett, O'Brien, Pearl, Priddy, Romines, Wooden, Wright, Yates. Nays 38-B. Adams, J. Allen, Beshear, Bevins, Blume, Blythe, Clapp, Clarke, Cooper, Craddock, Deskins, Dietz, Donnermeyer, Doss, Foster, Hopkins, Isler, Jones, Kenton, Kidd, King, LeMaster, Little, Mann, Mason, May, McBee, McGill, Richards, B. Richardson, P. Richardson, Stephens, Tobin, J. R. Turner, Vincent, Wells, White, Wible.

The Floor Amendment No. 10 to **SB 12** was rejected.

Representative Bendl moved the adoption of the Committee Amendment No. 4 to **SB 12:**

On the roll call the vote was yeas 32-Ackerson, W. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blythe, Bruce, Cyrus, Dawahare, DeFalaise, Denham, Givhan, Gray, Hancock, Hopkins, Hughes, Hurst, Kleier, Lindsay, Morris, Nett, O'Brien, Pearl, Priddy, P. Richardson, Robinson, Romines, Tobin, Thomas, Wooden. Nays 42-B. Adams, J. Allen, Bennett, Blandford, Blume, Clapp, Clarke, Cooper, Craddock, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Guenthner, Holbrook, Holloway, Imes, Isler, Kenton, Kidd, King, LeMaster, Little, Mason, May, McBee, McBride, McGill, McNutt, Richards, B. Richardson, Siemens, Stephens, J. R. Turner, Vincent, Wells, White, Wible, Yates.

The Committee Amendment No. 4 to **SB 12** was rejected.

Representative Romines moved the adoption of the following Floor Amendment No. 9 to **SB 12:**

Amend printed copy of Senate Bill 12 on page 50, line 5, after the word "thereof." add the following: "*Provided, however, that all units of family dwelling be put on a flat rate usage monthly rate.*".

On the roll call the vote was yeas 21-Ackerson, Arnold, Bennett, Bevins, Bruce, Cyrus, Denham, Dunn, Fitzgerald, Givhan, Gray, Hughes, Kleier, Lindsay, McBride, O'Brien, Priddy, Romines, Thomas, Wright, Yates. Nays 40-B. Adams, Benson, Beshear, Blume, Clapp, Clarke, Cooper, Craddock, Deskins, Dietz, Donnermeyer, Doss, Foster, Guenthner, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Mann, Mason, May, McBee, McGill, McNutt, Pearl, Richards, B. Richardson, Siemens, Stephens, Tobin, J. R. Turner, Vincent, Wible.

The Floor Amendment No. 9 to **SB 12** was rejected.

Representative Lindsay moved the adoption of the following Floor Amendment No. 8 to **SB 12:**

Amend printed copy of Senate Bill 12 on page 27, line 2, delete thirty (30) and insert "Ninety (90)";

and on page 27, line 11, delete Thirty (30) and insert "Ninety (90)";

and on page 27, line 25, delete Thirty (30) and insert "Ninety (90)";

On the roll call the vote was yeas 46-Ackerson, B. Adams, Arnold, Bennett, Benson, Bevins, Blandford, Blythe, Cooper, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Givhan, Gray, Hancock, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Kleier, LeMaster, Lindsay, Mann, McBride, McNutt, O'Brien, Pearl, Priddy, Richards, Robinson, Romines, Thomas, J. R. Turner, White, Wible, Wooden, Yates. Nays 16-Beshear, Blume, Brinkley, Bruce, Clapp, Clarke, Craddock, Doss, Isler, King, McGill, B. Richardson, Stephens, Tobin, Vincent, Wells.

The Floor Amendment No. 8 to **SB 12** was adopted.

The Speaker resumed the Chair.

Representative Benson moved that **SB 12,** as amended, be passed.

On the roll call the vote was yeas 61-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Foster, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Little, Mann, May, McBee, McGill, McNutt, Morris, O'Brien, Richards, B. Richardson, P. Richardson, Schmidt, Siemens, Stephens, Tobin, Thomas, J. R. Turner, Vincent, Wells, White, Wible. Nays 22-Bennett, Burnette, Dawahare, DeMarcus, Denham, Dunn, Givhan, Gray, Hughes, Kleier, Lindsay, Mason, McBride, Nett, Pearl, Priddy, Robinson, Romines, Siler, Wooden, Wright, Yates.

SB 12, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 12,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and retain their position. Agreed.

Representative B. Richardson moved that when the House adjourns, it do so by voice vote and until 10:00 a.m., Saturday, December 18, 1976.

On the roll call the vote was yeas 58-Ackerson, B. Adams, Arnold, Benson, Beshear, Bevins, Blandford, Blume, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Dunn, Foster, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Isler, Jones, Kenton, King, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Muncy, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Schmidt, Siemens, Siler, Stephens, Tobin, J. R. Turner, Vincent, Wells, White, Wible, Wooden, Yates. Nays 16-Bendl, Bennett, Blythe, Brinkley, Bruce, Dawahare, Deskins, Fitzgerald, Givhan, Gray, Imes, Kleier, Morris, Priddy, Robinson, Romines.

The motion that when the House adjourns, it do so by voice vote and until 10:00 a.m., Saturday, December 18, 1976, was adopted.

Announcements

The following members made requests in regard to voting: Representative Mason, "yea" on Committee Amendment No. 2 to **SB 12;** Representative J. Turner, "yea" on **HR 37;** Representative Stewart, "yea" on **HB 37.**

The following members filed Floor Amendments to Bills: Representative Holbrook, Floor Amendment No. 1 to **SB 20.**

Representative B. Richardson moved that no other business other than Report of Committees be conducted in the House on this day. Agreed.

Recess

Representative B. Richardson moved that the House recess for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees

The Committee on Highways and Traffic Safety reported **HR 32,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 32, A RESOLUTION requesting that the Kentucky Department of Transportation investigate a drainage problem.

WHEREAS, the drainage condition at the corner of Garrs Lane and Shawnee Expressway in Jefferson County is deplorable; and

WHEREAS, surface water from Shawnee Expressway drains onto private property at 4150 Dover Road; and

WHEREAS, the Kentucky Department of Transportation is the state agency responsible for the maintenance of state and interstate highways;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky Department of Transportation investigate the drainage problem described herein.

Section 2. That the Kentucky Department of Transportation report its findings and recommendations to the Interim Joint Committee on Highways and Traffic Safety prior to the end of interim committee deliberations during calendar year 1977.

The Committee Amendment to **HR 32** is as follows:

Amend printed copy of House Resolution 32 on page 1, after "4150 Dover Road; and" and before "WHEREAS, the Kentucky" by inserting the following:

"WHEREAS, there are many deplorable drainage conditions throughout the State of Kentucky that have been communicated to members of the General Assembly; and";

and on page 1, line 2, by inserting after the word "Transportation" the words "is requested to";

and on page 1, line 3, after the word "herein" by inserting the words "and other drainage problems brought to the attention of the Department by the members of the General Assembly";

and on page 1, line 5, by inserting after the word "transportation" the words "is requested to".

The Committee on Rules reported **SB 3, SB 20, SB 23,** and **SB 24** have been posted for passage in Orders of the Day, December 18, 1976.

The Committee on Rules reported **SB 17** has been recommitted to the Committee on State Government.

Adjournment

Representative Wells moved that the House adjourn until 10:00 a.m., Saturday, December 18, 1976.

The motion to adjourn was adopted by voice vote.

SATURDAY, DECEMBER 18, 1976

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The roll was called. All present except Representatives Head, Hughes, Maynard, and Priddy.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Overstreet moved that the reading of the Journal of December 17, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HR 39, by Representatives Arnold and Hancock: A RESOLUTION honoring Marguerite Bray for outstanding service to the House of Representatives.

Calendar

HR 32 taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

Representative Arnold moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Arnold moved the adoption of the following **HR 39:**

HR 39, A RESOLUTION honoring Marguerite Bray for outstanding service to the House of Representatives.

WHEREAS, Marguerite Bray bravely serves the Bell of Sara, the loveliest of clerks, in the upper reaches of this hallowed chamber; and

WHEREAS, Marguerite Bray displays remarkable patience with and provides yeoman service to the wives, families, and friends of this membership assembled; and

WHEREAS, Marguerite Bray is well know for two oft-quoted phrases, "can I see your pass, please" and "don't sit on the rail, please";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Marguerite Bray be commended and officially recognized as an outstanding servant of the House of Representatives.

Section 2. That the clerk be directed to deliver a copy of this resolution to Marguerite Bray.

HR 39 was adopted by voice vote.

Representative Guenthner moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Guenthner moved the adoption of the following **HR 35:**

HR 35, A RESOLUTION relating to the preschool handicapped program in the Jefferson County School System.

WHEREAS, the Department of Education has notified the Jefferson County School System that Foundation Program funds for preschool handicapped programs will be discontinued for the 1977-78 school year; and

WHEREAS, a handicapped child needs early intervention if he is to overcome his handicap and it is imperative that the preschool handicapped program continue in the Jefferson County School System;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Jefferson County Board of Education and Superintendent Ernest Grayson are hereby urged to use as much of their Title VI-B funds as permissible and any other discretionary funds available to continue the preschool handicapped program should Foundation Program funds be discontinued in the 1977-78 school year.

HR 35 was adopted by voice vote.

Representative Deskins moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Deskins moved that adoption of the following **HR 30:**

HR 30, A RESOLUTION urging delay of a certain day.

WHEREAS, the pressures of time and tasks of the 1976 Extraordinary Session bear heavily on all those under its influence; and

WHEREAS, the shopping days and the legislative days are equally rapid in their dwindling; and

WHEREAS, Kentuckians across the reaches of the Commonwealth face the ill-fated prospect of Christmas bereft of loved ones still laboring diligently in the confines of this Capitol with the duties of this extraordinary Extraordianry Session; and

WHEREAS, children everywhere surely could abide a few days of wait until the final committee substitutes and final floor amendments have reached concurrence;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Gentleman from the Pole-00, jolly old St. Nicholas-Kringle-Claus, be and he hereby is beseeched, urged and petitioned to delay the arrival of Christmas, 1976, until two days following the conclusion of the 1976 Extraordinary Session of the General Assembly.

Section 2. That finding himself unable to achieve this delay, said gentleman will find it in his heart to alert his constitutents in Kentucky as to the possible absence of certain of their loved ones this ensuing December 25.

On the roll call the vote was yeas 40-Ackerson, A. S. Adams, J. Allen, Arnold, Bennett, Bevins, Blair, Blandford, Blythe, Carpenter, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Doss, Fitzgerald, Floyd, Foster, Gray, Hancock, Hardwick, Kidd, King, Kleier, Little, Mann, Mason, McGill, Muncy, Nett, Overstreet, Richards, P. Richardson, Romines, Sale, Siemens, R. A. Turner, Wible, Yates. Nays 11-Behsear, Bruce, Crupper, Guenthner, Holbrook, Imes, LeMaster, Lindsay, McBride, Morris, Wright.

HR 30 was adopted.

Representative Wells moved that the rules be suspended to act upon all Resolutions and Citations. Agreed.

Representative Wells moved the adoption of the following Legislative Citation No. 10:

The House of Representatives of the Commonwealth of Kentucky hereby honors the memory of James Shannon, Sr., who served in the Kentucky General Assembly during the 1948 Session. This body further pays tribute to the memory of James Shannon, Sr. for his many outstanding civic and community contributions. (Sponsored by Representative Wells)

Agreed.

Representative Yates moved the adoption of the Committee Amendment to **HR 32.** Agreed.

Representative Yates moved the adoption of **HR 32,** as amended.

HR 32, as amended, was adopted by voice vote.

Representative Kleier moved the adoption of the following **HR 31:**

HR 31, A RESOLUTION requesting the Legislative Research Commission to appoint a special committee to study the feasibility of establishing a legislative delegation office in each area development district.

WHEREAS, many problems facing legislators in their respective districts are regional in nature and are shared by neighboring legislators; and

WHEREAS, in attacking common problems, legislators are more effective working together than working individually; and

WHEREAS, to provide optimum accessibility to his constituents, it is desirable that each legislator maintain a local office; and

WHEREAS, the cost of maintaining a local office exceeds the ability of many legislators to bear; and

WHEREAS, the Jefferson County legislative delegation has demonstrated the effectiveness of legislators working together to solve common problems, as well as the efficiency of maintaining a common office for the delegation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. It is recommended that the Legislative Research Commission appoint a special committee to study the feasibility of establishing a legislative delegation office in each of the area development districts, the membership of the special committee to consist of one legislator from each area development district, and the chairman to be appointed by the Legislative Research Commission from the membership.

Section 2. It is further recommended that in conducting the study, the special committee make a thorough analysis of the cost of maintaining an office for each delegation and possible funding sources, and that the special committee report along with any recommendations be delivered to the Legislative Research Commission no later than July 1, 1977.

Section 3. The cost in staff time and legislative compensation in completing this study is estimated to be $12,000, these funds to be supplied from the regular Commission budget and to be subject to budgetary limitations and other research responsibilities of the Commission.

HR 31 was adopted by voice vote.

Senate Message

Announcing passage of **HB 10, HB 42, HB 4, HB 35, HR 10, HB 27,** and **HB 16** with Senate Amendment.

Motions, Petitions, and Communications (continued)

The following members made requests concerning voting: Representative Blair, "yea" on **SB 12;** Representative Mason, "yea" on Committee Amendment No. 2 to **SB 12;** Representative Burnette, "yea" on **HR 30.**

Representative Hardwick moved the adoption of the following Legislative Citation No. 7:

The House of Representatives of the Commonwealth of Kentucky hereby commends and congratulates the Wayne County-Monticello Kiwanis Club for its many past contributions to the well-being of all citizens of Wayne County, the most recent of which was its outstanding radio auction to raise funds for needy children. (Sponsored by Representative Hardwick)

Agreed.

Orders of the Day

SB 1, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved the adoption of the Committee Amendment to **SB 1.** Agreed.

Representative Dunn moved that **SB 1,** as amended, be passed.

On the roll call the vote was yeas 87-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Doss, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

SB 1, as amended, was passed and the title agreed to.

Representative Dunn moved that the vote by which **SB 1,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 15, with House Committee Substitute and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the House Committee Substitute for **SB 15.** Agreed.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 6 to the House Committee Substitute for **SB 15:**

Amend printed copy of House Committee Substitute for Senate Bill 15 on page 564, lines 22-26, by deleting same;

and on page 565, line 1, by deleting same and inserting in lieu thereof the following:

"(5) The defendant in any action brought in Franklin Circuit Court under the provisions of subsection (1) of this section for the collection of taxes assessed under KRS Chapter 141 shall at any time prior to the submission for judgment upon proper motion have a change of venue to the county in which he resides or his principal office or place of business is located at no cost to the defendant in Franklin Circuit Court."

Agreed.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 5 to the House Committee Substitute for **SB 15:**

Amend printed copy of House Committee Substitute for Senate Bill 15 on page 565, line 21, following "472" to add ", 476, 477, 478, 479, 480, 481,"

and on page 565, line 22, to delete "Sections" and to insert in lieu thereof "Section"

and on page 565, line 23, to delete "Sections" and to insert in lieu thereof "Section" and to delete "13, 25, 27, 33, 38, 39, 41, 43,"

and on page 565, line 24, to delete the same and on page 566, line 2, following "205-474" to add ", 475, 482, 483, 484,"

and on page 566, line 6, to add at the end thereof "24.051, 24.065,"

and on page 566, line 10, delete "23.060, 23.085, 23.090"

and on page 566, line 11, to delete the same

and on page 566, lines 12, 13, and 14, to delete the same

and on page 566, line 15, to delete the same

and on page 566, line 13, following "23.055" to add "23.060," and following "23.070" to add "23.085, 23.090" and following "23.095" to add "23.100"

and on page 566, line 20, following "23.280" to add "24.010," and at the end of the line to add "24.265, 24.270,"

and on page 566, line 21, to delete "KRS 28.220, 28.290," and to insert in lieu thereof "Chapter 28,"

Agreed.

Representative LeMaster moved the adoption of the following Floor Amendment No. 4 to the House Committee Substitute for **SB 15:**

Amend printed copy of House Committee Substitute for Senate Bill 15 at the top of page 558, insert the following new section and renumber the remaining sections accordingly:

"Section 475. KRS 532.080 is amended to read as follows:

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (6) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (6) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender in the second degree is a person who is more than twenty-one years of age and who stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

2. Was on probation or parole from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation or parole *on the previous felony conviction* within five years *prior to* [of] the date of commission of the felony for which he *now stands* [was last] convicted.

(3) A persistent felony offender in the first degree is a person who is more than twenty-one years of age and who stands convicted of a felony after having been convicted of two or more felonies. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen years at the time the offense was committed; and [was discharged from probation or parole within five years of the date of commission of the felony for which he was last convicted.]

(c) That the offender:

1. Completed service of the sentence imposed on any of the previous felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or

2. Was on probation or parole from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation or parole on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted.

(4) For the purpose of determining whether a person has two or more previous felony convictions, two or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one conviction, unless one of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation or conditional release.

(6) A person who is found to be a persistent felony offender in the first degree shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A or Class B felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty years nor more than life imprisonment; or

(b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten years nor more than twenty years.

(7) A person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, nor for parole until having served a minimum term of incarceration of not less than ten years."

Agreed.

Representative Wible moved the adoption of the Committee Amendment to the House Committee Substitute for **SB 15.** Agreed.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 2 to **SB 15:**

Amend printed copy of Committee Substitute for Senate Bill 15 on page 370, by deleting lines 17 through 26;

and on page 371, by deleting lines 1 through 26;

and on page 372, by deleting lines 1 through 26;

and on page 373, by deleting lines 1 through 9.

Agreed.

Representative B. Richardson moved that **SB 15,** by way of House Committee Substitute as amended, be passed.

On the roll call the vote was yeas 75-B. Adams, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Thomas, Vincent, Wells, White, Wible, Wooden, Yates. Nays 11-Ackerson, DeMarcus, Hancock, Hardwick, Kleier, Lindsay, Overstreet, Rattliff, Robinson, Tobin, R. A. Turner.

SB 15, by the way of House Committee Substitute as amended, was passed.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 3 to the House Committee Substitute for **SB 15:**

Amend printed copy of House Committee Substitute for Senate Bill 15, on page 1, by amending the title to read:

"AN ACT relating to the Court of Justice and Units of government and agencies affected thereby."

The Floor Amendment No. 3 (Title Amendment) to the House Committee Substitute for **SB 15** was adopted.

Representative B. Richardson moved that the vote by which **SB 15,** by way of House Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 20 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Beshear moved the adoption of the following Floor Amendment No. 1 to **SB 20:**

Amend printed copy of Senate Bill 20 on page 2, by deleting lines 5, 6, 7 and 8.

(Speaker Pro Tempore, presiding.)

On the roll call the vote was yeas 15-Ackerson, Beshear, Blume, Brown, Clarke, DeFalaise, Hardwick, Holbrook, Kleier, LeMaster, Nett, Overstreet, Pearl, Wible, Wooden. Nays 58-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Benson, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Bruce, Carpenter, Clapp, Cooper, Craddock, Cyrus, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gray, Guenthner, Hopkins, Hurst, Imes, Isler, Jones, Kidd, King, Lindsay, Mann, Mason, McBee, McBride, Morris, Muncy, O'Brien, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siemens, Siler, Stephens, Tobin, R. A. Turner, White, Yates.

The Floor Amendment No. 1 to **SB 20** was rejected.

On the roll call the vote was yeas 77-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, May, McBee, McBride, McGill, McNutt, Morris, Muncy, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Tobin, Thomas, R. A. Turner, Vincent, Wells, White, Wright, Yates. Nays 12-W. Allen, Beshear, DeFalaise, Holbrook, Kleier, Mason, Nett, Overstreet, Rattliff, Schmidt, Wible, Wooden.

SB 20 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 20** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 23 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

(The Speaker resumed the Chair.)

On the roll call the vote was yeas 81-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Gray, Guenthner, Hancock, Hardwick, Holloway, Hopkins, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Tobin, Thomas, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 2-Blythe, Burnette.

SB 23 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 23** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 4, HB 10, HB 27, HB 35, HB 42, HCR 10** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 4, HB 10, HB 27, HB 35, HB 42, and **HCR 10** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

SB 24 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 61-B. Adams, A. S. Adams, J. Allen, Bendl, Bennett, Benson, Bevins, Blandford, Blume, Brinkley, Bruce, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Givhan, Gray, Guenther, Hancock, Holloway, Hopkins, Hurst, Imes, Isler, Kenton, Kidd, King, LeMaster, Little, Mann, McBee, McGill, Muncy, O'Brien, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 17-Ackerson, Beshear, Brown, Clarke, Fitzgerald, Holbrook, Jones, Kleier, Lindsay, Mason, McBride, McNutt, Overstreet, Pearl, Stephens, Tobin, Thomas.

SB 24 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 24** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that the rules be suspended to allow a meeting of the Committee on State Government on Recess. Agreed.

Representative B. Richardson moved that the rules be suspended to allow **SB 17** to be posted for passage in Orders of the Day. Agreed.

Recess

Representative B. Richardson moved that the House recess until 1:30 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees

The Committee on State Government reported **SB 17,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment to **SB 17** is as follows:

Amend printed copy of Senate Bill 17 on page 1, lines 6 and 7, by deleting "county wide" and inserting in lieu thereof the words "in the same geographical area in which the courthouse district tax was in effect on the effective date of this Act"

and on page 1, line 13, at the end, by adding "All assets formerly owned and controlled by the Campbell County Courthouse District and Commission on the effective date of this Act shall become and be immediately the property of the Campbell County Fiscal Court."

and on page 1, after line 20, by adding the following:

"Section 3. Whereas there is an immediate need for the Campbell County Fiscal Court to begin plans for the provision of necessary space for the new court system mandated by the implementation of the Judicial Article, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor."

The Committee on Rules reported **SB 17** has been posted for passage in Orders of the Day, December 18, 1976.

Orders of the Day (continued)

Representative B. Richardson moved that the House concur in the following Senate Amendment to **HB 5:**

Amend printed copy of House Bill 5 on page 1, line 11 by deleting the following: ": the expansion"

and on line 12 by deleting the following: "of the normal complement of such peace officers,"

On the roll call the vote was yeas 14-B. Adams, W. Allen, Carpenter, Hancock, Holbrook, Holloway, Hopkins, Jones, May, McNutt, Schmidt, Stephens, Tobin, Wells. Nays 56-Ackerson, A. S. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Brinkley, Brown, Bruce, Burnette, Cooper, Craddock, Cyrus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Givhan, Gray, Hardwick, Isler, Kenton, Kidd, King, Kleier, Little, Mann, Mason, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, Siler, Thomas, Wible, Wooden, Wright, Yates.

The motion that the House concur in the Senate Amendment to **HB 5** was rejected.

The House will ask the Senate to recede from the Amendment to **HB 5.**

Senate Message

Announcing passage of **HB 14** with Senate Committee Substitute, **HB 23** with Senate Amendments, **HB 20** with Senate Amendments, and **HR 26.**

Report on Enrolled Bills

The Committee on Enrollment reported **SB 18** and **SR 5** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

Representative B. Richardson moved that **HB 17** be taken from Orders of the Day for consideration of Senate Amendments. Agreed.

Representative B. Richardson moved that the House concur in the following Senate Committee Substitute and Amendments to **HB 17:**

HB 17, AN ACT relating to the disqualification of prosecuting attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

It is hereby declared to be the policy of this Commonwealth to encourage cooperation among law enforcement officers and to provide for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the Commonwealth, in order to maintain uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the Commonwealth. To this end, a unified and integrated prosecutor system is hereby established with the Attorney General as chief prosecutor of the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of administration of the Unified Prosecutorial System, there is hereby created the Prosecutors Advisory Council, hereafter referred to as the Council.

(2) The Council shall consist of seven (7) members who shall be residents of Kentucky and shall include the Attorney General; three (3) Commonwealth's Attorneys, one (1) from counties containing a first or second class city or an urban county government, one (1) from counties containing a third class city, and one (1) from the other counties, each of whom shall be appointed by the Governor from a list of three (3) names for each Commonwealth's attorney position submitted by the Commonwealth's Attorneys Association; and three (3) County Attorneys, one (1) from counties containing a first or second class city or an urban county government, one (1) from counties containing a city of the third class, and one (1) from the other counties, each of whom shall be appointed by the Governor from a list of three (3) names for each county attorney position submitted by the County Attorneys Association. The Attorney General shall serve during his term of office and the other members shall serve at the pleasure of the Governor.

(3) The Attorney General shall be the chairman of the Council. Four (4) members shall constitute a quorum for the conduct of business. The Council shall promulgate annually a schedule of meetings. Special meetings may be called by the chairman or four (4) members of the Council. A minimum of ten (10) days notice must be given prior to the call of a special meeting. Such a notice may be waived by a majority of the Council.

(4) The Council shall be responsible for, but not limited to, the preparation of the budget of the Unified Prosecutorial System of the Commonwealth of Kentucky and the continuing legal education and program development of the Unified Prosecutorial System of Kentucky.

(5) Each member of the Council shall receive no additional compensation for his service on the Council but shall be reimbursed for actual expenses incurred in the performance of his duties.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Council in its sole discretion may delegate the following functions to the office of the Attorney General.

(1) Prepare budget estimates of state appropriations necessary for the maintenance and operation of the Unified Prosecutorial System and make recommendations in respect thereto.

(2) Collect statistical and other data and make a report to the Council relating to the expenditure of public moneys for the maintenance and operation of the Unified Prosecutorial System and the offices connected therewith.

(3) Carry on a continuous survey and study of the organization, operation, condition of business, practice and procedure of the Unified Prosecutorial System.

(4) Formulate and submit to the Council recommendations of policies for the improvement of the Unified Prosecutorial System.

(5) Provide for educational programs for the members of the Unified Prosecutorial System.

(6) Perform such other functions as may be assigned by the Council.

SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) In the event of the incapacity, refusal without sufficient grounds, inability, conflict of interest of the local prosecutor, or his failure to act in a certain case or cases, the Council may authorize, by the vote of no less than four (4) of its members, the Attorney General to initiate, intervene, or supersede a local prosecutor for the purpose of prosecuting the criminal business in question of the Commonwealth in that circuit or district after due notice having been given to the local prosecutor.

(2) When the Attorney General shall proceed under subsection (1) herein, he shall petition the Circuit Court of that circuit to disqualify the County Attorney or Commonwealth Attorney for good cause shown, when the County Attorney or Commonwealth Attorney refuses to disqualify himself. The action of the Circuit Court shall be subject to review according to the Rules of the Supreme Court.

(3) When the Attorney General has been authorized to participate in a given case pursuant to subsections (1) and (2), he may, at his own discretion, direct a Commonwealth Attorney or County Attorney from another circuit or district to serve as the Special Prosecutor, who shall be reimbursed for all of his actual expenses.

(4) Whenever the Attorney General shall undertake any of the actions prescribed in this section, he shall be authorized to exercise all powers and perform all duties in respect to such criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to, the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas and processes of any kind, and to appear before all grand juries, courts, or tribunals.

SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General shall submit to the Governor and to the General Assembly a biennial report setting forth the activities of the Unified Prosecutorial System for the preceding fiscal years; to be included in this report are the activities of the Prosecutors Advisory Council, an abstract of the annual report of the local prosecutors, and suggestions and recommendations for the uniform enforcement of the criminal laws of the Commonwealth.

(2) Each Commonwealth's Attorney and County Attorney shall be required by the Council to submit such written reports as are determined necessary for the preceding calendar year.

SECTION 6. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth's Attorney shall attend each circuit court held in his judicial circuit. He shall have duty to prosecute all violations of the criminal and penal laws which are to be tried in the circuit court in his judicial circuit. In addition, he shall have the primary responsibility within his judicial circuit to present evidence to the grand jury concerning such violations.

(2) The County Attorney shall attend the district court in his county and prosecute all violations of criminal and penal laws within the jurisdiction of said district court.

(3) The Commonwealth's Attorney and County Attorneys in a judicial circuit shall cooperate in the enforcement of criminal and penal laws of the Commonwealth. When necessary, the Commonwealth's Attorney and County Attorney shall assist each other in prosecution within their respective courts.

(4) In the event of the absence from a county of all district judges and all circuit judges and all trial commissioners, the circuit clerk in each county may, with the approval of the Commonwealth Attorney or County Attorney, issue arrest warrants.

SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

Each regular Commonwealth's Attorney and County Attorney shall be, ex officio, a special prosecutor of the Commonwealth, and as such shall perform such duties and render such services, at such time and places, co-extensive with the Commonwealth as may be required by the Attorney General. The duties and services may include, but are not limited to, prosecution of or participation in action outside of his judicial circuit or judicial district when directed by the Attorney General and assisting the Attorney General in preparation and presentation of the Commonwealth's position in criminal cases appealed to Circuit Court, Court of Appeals, and the Supreme Court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

Upon certification by the Commonwealth's Attorney and County Attorneys to the Attorney General and for good cause shown that he, as the regular elected Commonwealth's Attorney or County Attorney, and his assistant or assistant's, if any, should not participate in a particular prosecution arising in his judicial circuit or district, the Attorney General may direct another Commonwealth's Attorney or County Attorney as a special prosecutor for the Commonwealth to prosecute the action. Nothing in this section shall prohibit the appointment of a Commonwealth's Attorney or County Attorney pro tem, as provided in KRS 69.060, where applicable.

SECTION 9. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Commonwealth's Attorney and County Attorney shall not act as defense counsel in any criminal prosecution in any state or federal court in this Commonwealth, except in cases in which he is a party.

SECTION 10. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall be construed as eliminating or limiting any of the other duties of the Commonwealth's Attorney or County Attorney as set out in the Kentucky Revised Statutes.

SECTION 11. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) Each Commonwealth's Attorney and each County Attorney shall submit a proposed budget for his office to the Prosecutors Advisory Council to be included in the total budget of the Unified Prosecutorial System and submitted as part of the budget of the office of the Attorney General in accordance with KRS Chapter 45. Nothing contained herein shall be construed as limiting, restricting, or terminating the authority of local governmental units, including cities, counties, and urban counties, to provide financial support for the office of any prosecutor.

(2) Office expenses incurred by the Commonwealth's Attorney in the performance of his duties, as required by the Kentucky Revised Statutes, shall be paid by the Commonwealth.

(3) Office expenses incurred by the County Attorney in the performance of his duties as criminal prosecutor shall be paid by the Commonwealth.

(4) Office expenses incurred by the County Attorney in the performance of his duties as legal adviser to the county shall be paid by the fiscal court as required by the Kentucky Revised Statutes.

SECTION 12. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The compensation of each Commonwealth's Attorney shall be paid out of the State Treasury.

(2) The compensation of the staff of each Commonwealth's Attorney shall be paid out of the State Treasury.

(3) In each judicial circuit containing a city of the first or second class or an urban-county government, the Commonwealth's Attorney shall not engage in the private practice of law. All other Commonwealth's Attorney shall not be prohibited from engaging in the private practice of law.

(4) Each Commonwealth's Attorney who is prohibited from engaging in the private practice of law, shall receive as compensation for his services the sum of twenty-six thousand dollars ($26,000) per annum.

(5) Each Commonwealth's Attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars ($14,300) per annum.

(6) Each Commonwealth's Attorney of the state shall be paid each month the sum of five hundred dollars ($500), which sum is declared to be the equivalent of the minimum sum that each Commonwealth's Attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(7) In order to equate the compensation of Commonwealth's Attorneys with the purchasing power of the dollar, the Department of Commerce shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The Department of Commerce shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Department of Commerce, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department of Commerce.

SECTION 13. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) Each Commonwealth's Attorney shall, during the calendar year 1977 and through June 30, 1978, be entitled to at least the number of assistant Commonwealth's Attorney positions, stenographic, secretarial and clerical staff positions, investigative and other personnel positions, which he had or was entitled to at the number and salary level in effect on December 1, 1976.

(2) The number of assistant Commonwealth's Attorney positions, stenographic, secretarial and clerical staff positions, investigative and other personnel positions, shall be based on real need to be determined with the advice and consent of the Prosecutors Advisory Council.

(3) All assistant Commonwealth's Attorneys shall be licensed practicing attorneys. The full-time assistant Commonwealth's Attorneys shall not be allowed to engage in the private practice of law.

(4) All salaries paid to personnel appointed hereunder shall be paid from the State Treasury. Such salaries shall be commensurate with the appointee's education, experience, training and responsibility, and be based upon the guidelines established by the Prosecutors Advisory Council, which guidelines shall be comparable with the classification and compensation plan for comparable positions maintained by the State Department of Personnel, pursuant to KRS 64.640.

(5) The fiscal court or urban-county government in the county or counties that comprise the judicial circuit shall be responsible for providing the office of the Commonwealth's Attorney with an adequate grand jury room and witness rooms.

SECTION 14. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) Each County Attorney shall receive, for prosecutorial duties, an annual salary to be paid out of the State Treasury which shall be the total compensation which he received during the calendar year 1976, but which shall in no event be less than $7,200.

(2) Each county attorney shall be paid each month the sum of two hundred fifty dollars ($250), which sum is declared to be the equivalent of the minimum sum that each county attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(3) In order to equate the compensation of County Attorneys with the purchasing power of the dollar, the Department of Commerce shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than $12,000 per annum. The Department of Commerce shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Department of Commerce, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department of Commerce.

(4) The County Attorney shall not be prohibited from engaging in the private practice of law.

SECTION 15. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) Each County Attorney, with the approval of the Prosecutors Advisory Council, may appoint one (1) assistant County Attorney for each District Judge in excess of one (1) in his judicial district unless prior approval is obtained from the Prosecutors Advisory Council for additional appointments; except no assistant County Attorney may be appointed in multi-county judicial districts in which there are fewer District Judges than County Attorneys unless prior approval is obtained from the Prosecutors Advisory Council for additional appointments.

(2) The number of assistant County Attorney positions, stenographic, secretarial and clerical positions and other personnel positions shall be based on real need to be determined with the advice and consent of the Prosecutors Advisory Council.

(3) Assistant County Attorneys shall not be prohibited from engaging in the private practice of law.

(4) Any personnel appointed by the County Attorney, under this section, who assist in the prosecutorial duties of district court, shall be appointed for the duration of the unexpired part of the term of the County Attorney, and subject to the removal at the discretion of the County Attorney.

(5) All salaries paid to personnel appointed under this section shall be paid from the State Treasury to the extent such personnel assist in prosecutorial duties. Such salaries shall be commensurate with the appointee's education, experience, training and responsibility, and be based upon the guidelines established by the Prosecutors Advisory Council, which guidelines shall be comparable with the classification and compensation plan for comparable positions maintained by the State Department of Personnel, pursuant to KRS 64.640.

SECTION 16. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section the following words or phrases shall have the meaning indicated:

(a) "Proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(b) "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(c) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

1. Ownership in a mutual or common investment fund that holds securities, or a proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, or ownership of government securities is a "financial interest" only if the outcome of the proceeding could substantially affect the value of the interest;

2. An office in an educational, religious, charitable, fraternal, or civil organization is not a "financial interest" in securities held by the organization.

(2) Any prosecuting attorney shall disqualify himself in any proceeding in which he or his spouse, or a member of his immediate family either individually or as a fiduciary:

(a) Is a party to the proceeding, or an officer, director, or trustee of a party;

(b) Is acting as a lawyer in the proceeding;

(c) Is known by the prosecuting attorney to have an interest that could be substantially affected by the outcome of the proceeding;

(d) Is to the prosecuting attorney's knowledge likely to be a material witness in the proceeding;

(e) Has served in private practice or government service, other than as a prosecuting attorney, as a lawyer or rendered a legal opinion in the matter in controversy;

(f) Has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding.

(3) Any prosecuting attorney may be disqualified by the court in which the proceeding is presently pending, upon a showing of actual prejudice.

(4) In the event that a prosecuting attorney is disqualified, he shall certify such fact in writing to the attorney general who may direct another Commonwealth's attorney or county attorney or an assistant attorney general as a special prosecutor to represent the Commonwealth in that proceeding.

Section 17. KRS 15.205 is amended to read as follows:

When the attorney general has been requested to participate in a given case pursuant to KRS 15.200, the attorney general may, at his own discretion, direct that a commonwealth's attorney *or county attorney* from another *circuit or* district participate in the case as a special prosecutor for the Commonwealth.

Section 18. KRS 18.140 is amended to read as follows:

(1) The classified service to which KRS 18.110 to 18.360 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of state planning, and the office of the secretary of the governor's cabinet;

(e) Heads of departments, including those appointed by boards and commissions;

(f) One (1) principal assistant or deputy for each head of a department;

(g) One (1) additional principal assistant or deputy, or other major assistants as may be necessary for making and carrying out policy, for each head of a department in those instances in which the nature of the functions, size or complexity of the agency involved are such that the personnel board may approve such an addition or additions on petition of the department head approved by the commissioner of personnel;

(h) Division directors subject to the provisions of KRS 18.150;

(i) Physicians employed as such in institutions for treatment of patients with mental illness or tuberculosis;

(j) One (1) private secretary for each head of a department and for each principal assistant or deputy not included in the classified service;

(k) The judicial department, referees, receivers, jurors, and notaries public;

(l) Officers and members of the staffs of state universities and colleges and student employes of such institutions, provided that said institutions shall establish and implement a personnel system embodying the principles in KRS 18.110 to 18.360 applicable to faculty members and staff; and officers, teachers, and employes of local boards of education;

(m) Patients or inmates employed in state institutions;

(n) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor;

(o) Seasonal, temporary, and emergency employes;

(p) Federally funded time-limited employes;

(q) Officers and members of the state militia;

(r) Peace officers in the department of justice, Provided that said department shall maintain a personnel system embodying the principles herein applicable to peace officers;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner;

(t) Superintendents of state penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311*;* [.]

(v) County and Commonwealth's attorneys and their respective appointees.

(2) Nothing in KRS 18.110 to 18.360 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and KRS 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employes with status promoted to positions exempted from classified service may, upon termination of their employment in the exempted service, revert to their classified status, but not necessarily to a particular position in the classified service.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 19. KRS 64.527 is amended to read as follows:

In order to equate the compensation of [commonwealth's attorneys,] county judges, [county attorneys,] county clerks, circuit clerks, sheriffs and jailers with the purchasing power of the dollar, the department of commerce shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than $7,200 per annum. The department of commerce shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the department of commerce, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the department of commerce.

Section 20. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections *(5) and* (6) [and (7)] of this section, the fiscal court of each county shall fix the compensation of every county officer and employe except the officers named in KRS 64.535.

[(2) The county attorney of each county shall receive a reasonable annual salary to be fixed by the fiscal court. In addition to such salary, the county attorney shall also be entitled to the statutory fees of his office, but his annual salary as fixed by the fiscal court plus the fees of his office shall not exceed $14,300.]

(2) [(3)] For the purposes of this section, master commissioners and receivers in counties other than those containing a population of 75,000 or more, and justices of the peace and constables in all counties, shall be deemed to be county officers, and deputies or assistants of county officers shall be deemed to be county employes, but employes of county boards or commissions which are now authorized by law to fix the compensation of their employes shall not be deemed to be county employes for the purposes of this section.

(3) [(4)] In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive, from both sources. The fiscal court may also fix the number of deputies and assistants, and, except as provided in subsection *(7)* [(8)], the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office.

(4) [(5)] In the case of county officers elected by popular vote *except the county attorney*, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the

county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) [(6)] Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county court clerk, sheriff, jailer, master commissioner or receiver, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(6) [(7)] Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed two hundred sixty dollars ($260) per month. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed $9,600 per year, in counties containing cities of the second class it shall not exceed $9,000 per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; nor shall they receive any compensation for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

(7) [(8)] Circuit court clerks in counties other than those containing a population of 75,000 or more shall receive as compensation per year the maximum compensation allowed by law for circuit court clerks of this commonwealth, if fees or funds for this purpose are sufficient. The first and second deputies shall be allowed to receive a salary not to exceed $9600 per year; and other deputies shall be allowed to receive a salary not to exceed $7200 per year. Each circuit clerk shall be allowed to fix the amount of the salary of each of his deputy clerks.

Section 21. KRS 64.535 is amended to read as follows:

The county court clerk, circuit clerk, county judge, sheriff, [county attorney,] and jailer of each county shall receive a maximum monthly salary of one-twelfth (1/12) of $14,300, to be paid solely out of the statutory fees and salaries received by him during the calendar year.

Section 22. KRS 69.010 is amended to read as follows:

(1) Except as provided in *subsection* [subsections] (2) [and (3)] of this section, the Commonwealth's attorney [shall attend each circuit court held in his judicial circuit, and prosecute all violations of the criminal and penal laws therein. He] shall, except in Franklin County, attend to all civil cases and proceedings in which the Commonwealth is interested in the circuit courts of his judicial circuit. In civil cases the governor may employ counsel to assist the Commonwealth's attorney. The fees of the counsel employed by the governor shall be paid out of the state treasury upon a voucher signed by the governor.

(2) In each judicial circuit containing a city of the first or second class or an urban-county government, the Commonwealth's attorney [shall be a full-time prosecutor who shall not engage in the private practice of law, nor shall be engage in any other business that would conflict with the duties of his office.]

[(3) The duties of the Commonwealth's attorney provided for in subsection (2) of this section shall be the same as the duties of the Commonwealth's attorney provided for in subsection (1) of this section, except:]

[(a) He] shall not be required to represent the Commonwealth in any civil proceedings.

[(b) He shall have the duty to prosecute all violations of the criminal and penal laws which are to be tried in circuit court in his judicial circuit. In addition, he shall have the duty to prosecute any preliminary proceedings of such violations including, but not necessarily limited to the duty to prosecute preliminary hearings wherever held and the duty to present evidence to the grand jury concerning such violations. Further, he shall have the duty to represent the state in all appeals taken to the circuit court in his judicial circuit from any inferior court.]

Section 23. KRS 69.030 is amended to read as follows:

Each commonwealth's attorney shall advise the collector of money due the commonwealth in each county of his district in regard to motions against delinquent collecting officers for failing to return executions, and shall prosecute the motions. [He shall be allowed ten per cent (10%) of the damages imposed by law and collected from the officers for such failure.]

Section 24. KRS 69.057 is amended to read as follows:

Any commonwealth's attorney *or county attorney* acting as a special prosecutor shall be reimbursed for his actual expenses incurred for lodging, meals and necessary travel. Such claims upon being approved by the attorney general, shall be submitted to the department of finance for preparation of warrants and payments from the state treasury.

Section 25. KRS 69.060 is amended to read as follows:

If the commonwealth's *or county* attorney is absent at any term or part of a term of a circuit *or district* court, the *chief judge of the appropriate court* [circuit judge] may appoint a suitable attorney to act as commonwealth's *or county* attorney during his absence *to prosecute criminal cases in the respective court. Such pro tem commonwealth's or county attorney shall receive for his services the same compensation which the regular commonwealth's or county attorney would receive for such criminal prosecutorial duties, on a proportional basis,* [The judge shall enter an order allowing the person appointed seven dollars ($7.00) per day,] to be paid out of the state treasury on certificate of the circuit court clerk. [In addition the pro tem attorney shall have one-half (1/2) the per centum allowed the commonwealth's attorney.] The judge shall not appoint an attorney to act in the place of the commonwealth's attorney unless he and the county attorney are both absent, or are related to or counsel for the accused, except that in cases of felony the judge may appoint a pro tem commonwealth's attorney even though the county attorney is present and not disqualified.

Section 26. KRS 69.100 is amended to read as follows:

In counties having a population of 200,000 or over [the Commonwealth's attorney shall appoint six stenographers for terms of four years subject to removal at any time by the commonwealth's attorney. Five of] the stenographers [shall do stenographic work and typewriting] for the Commonwealth's attorney [and perform other duties assigned to them by the commonwealth's attorney. One stenographer] shall [perform the duties of record clerk. The stenographers] have the same power of administering an oath as a notary public.

Section 27. KRS 69.105 is amended to read as follows:

In counties containing a city of the second class, the [Commonwealth's attorney may appoint a stenographer for a term of four (4) years, subject to removal at any time by the Commonwealth's attorney. The] stenographer [shall do stenographic work] for the Commonwealth's attorney [and perform such other duties assigned to him by the Commonwealth's attorney, and] shall have the same power of administering an oath as a notary public. [The stenographer may receive an annual salary to be fixed and paid by the fiscal court out of the county levy in equal monthly instalments. In judicial circuits which contain one or more other counties in addition to the county containing a city of the second class, each county shall pay a proportionate part of the salary of the stenographer, in proportion to the amount of work attributable to each county, the proportion being certified by the Commonwealth's attorney; and provided same is approved by the fiscal courts of such counties.]

Section 28. KRS 69.110 is amended to read as follows:

[(1) In counties having a population of 150,000 or more the Commonwealth's attorney shall appoint seven (7) circuit detectives for a term of four (4) years subject to removal at any time by the Commonwealth's attorney.]

[(2) In counties having a population of 125,000 or more the Commonwealth's attorney may appoint four (4) circuit detectives for a term of four (4) years subject to removal at any time by the Commonwealth's attorney, subject to the approval of the fiscal court.]

[(3) In counties containing a city of the second class the Commonwealth's attorney shall appoint a circuit detective for a term of four (4) years subject to removal at any time by the Commonwealth's attorney.]

[(4)] *Circuit* [The] detectives [appointed pursuant to this section] shall have the same power of arrest and right to execute process as sheriffs have. They shall assist the Commonwealth's attorney in all matters pertaining to his office in the manner he designates and shall assist him in the preparation of all criminal cases in circuit court by investigating the evidence and facts connected with such cases.

[(5) In counties containing a population of 40,000 or more persons but not containing a city of the second class, the Commonwealth's attorney may, if the fiscal court concurs therein, appoint a circuit detective having a term of four (4) years subject to removal at any time by the Commonwealth's attorney.]

[(6) In circuits composed of three (3) or more counties and containing a city of the third class, the Commonwealth's attorney may appoint a circuit detective having a term of four (4) years subject to removal at any time by the Commonwealth's attorney. Such circuit detective may receive an annual salary not to exceed $7,500, to be paid by the fiscal courts of the judicial circuit in such manner as they may agree.]

[(7) In all circuits not covered by subsections (1) to (6) above, the Commonwealth's attorney may appoint one circuit detective subject to the same salary and tenure provisions as subsection (6) above.]

Section 29. KRS 69.210 is amended to read as follows:

(1) The county attorney shall attend *the* [all county and] fiscal *court* [courts held in his county] and conduct all [cases and] business in *that court* [those courts] touching the rights or interests of the county,

and when so directed by the [county or] fiscal court he shall institute, defend and conduct all civil actions in which the county is interested before any of the courts of the Commonwealth.

[(2) Except as provided for by KRS 69.010(3)(b), the county attorney shall attend to the prosecution, in courts inferior to the circuit court, of all criminal and penal cases in his county in which the Commonwealth or the county is interested, exept those cases in a police court for which there is a prosecuting attorney who has the duty to prosecute such cases.]

[(3) The county attorney shall attend the circuit courts held in his county and aid the Commonwealth's attorney in all prosecutions therein, and in the absence of the Commonwealth's attorney he shall attend to all of the Commonwealth's business in the circuit courts, except those felony cases for which a pro tem Commonwealth's attorney is appointed under KRS 69.060.]

(2) [(4)] The county attorney shall give legal advice to the fiscal *court* [and county courts] and the several county officers in all matters concerning any county business within their jurisdiction. He shall oppose all unjust or illegally presented claims.

(3) [(5)] A county attorney serving in a county or urban-county which is part of a judicial circuit described by KRS 69.010(2), in addition to the duties in subsections (1) *and (2)* [through (4)] of this section, shall have the following duties:

(a) He shall attend all civil cases and proceedings in his county in which the Commonwealth is interested.

(b) He shall advise the collector of money due the Commonwealth in the county in regard to motions against delinquent collecting officers for failing to return executions, and shall prosecute the motions. [He shall be allowed ten percent (10%) of the damages imposed by law and collected from the officers for such failure.] In no case shall the county attorney take a fee or act as counsel in any case in opposition to the interest of the county.

[(6) Notwithstanding the exception set forth in subsection (2) of this section and notwithstanding any other provision to the contrary the county attorney in a county containing an urban-county government shall attend to the prosecuting in courts inferior to the circuit court of all criminal and penal cases in his county in which the Commonwealth or the county is interested.]

Section 30. KRS 69.320 is amended to read as follows:

In counties containing a city of the first class the [county attorney shall appoint a stenographer for a term of four (4) years, subject to removal at any time by him. The] stenographer *for the county attorney* shall [do the stenographic and typewriting work required in the county attorney's office and shall] have the same power of administering an oath as a notary public. [The stenographer shall continue to receive the salary now fixed by law and paid out of the county levy; Provided, however, That such salary may be increased or decreased to the amount fixed by the county attorney by written recommendation to the fiscal court of the county, which recommendation shall become effective upon its approval by resolution of the fiscal court.]

Section 31. KRS 69.450 is amended to read as follows:

The qualified voters of cities of the second class, except those operating under the commission or city manager form of government, shall elect a city attorney, for a term of four (4) years. [Except as provided for by subsection (3)(b) of KRS 69.010,] The city attorney shall appear for the city in all cases [in the police court, and prosecute or defend on behalf of the city all appeals from the decisions of the police court] in which the city is a party, or is in any way interested. He shall perform such other duties as are prescribed by ordinance or required of him by the city solicitor. The city attorney shall be paid such salary as the city legislative body deems proper.

Section 32. KRS 69.490 is amended to read as follows:

The city attorney in cities of the third class shall be the general law officer of the city. He shall attend all meetings of the legislative body and advise its members and all other city officials in all matters pertaining to their duties or affecting the interest of the city. He shall attend to all legal business of the city [, except prosecutions in the police court and appeals therefrom].

Section 33. KRS 69.560 is amended to read as follows:

The legislative body of each city of the fourth class, except those operating under the commission or city manager form of government, as soon as it is organized or as soon thereafter as practicable, and biennially thereafter, may appoint a city attorney, or it may provide by ordinance at least sixty (60) days previous to any election that the city attorney be elected by the qualified voters of the city at the same time and for the same term that the police judge is elected. The city attorney must be a practicing attorney, and a resident of the city. The city attorney shall hold his office for a term of two (2) years, subject to removal at any time for good cause by the city legislative body. [Except as provided for by subseciton (3)(b) of KRS 69.010,] The city attorney shall [prosecute all pleas of the Commonwealth and all warrants or proceedings instituted for violation of the ordinances or municipal regulations of the city in the police court,] attend the meetings of the city legislative body, advise it in all matters of litigation or legal proceedings, and perform any other duties in his department required by the city legislative body. The city legislative body shall fix his compensation by ordinance before his appointment or election.

Section 34. KRS 69.580 is amended to read as follows:

[Except as provided by subsecton (3) [b) of KRS 69.010,] The city attorney of a city of the fifth class shall advise the city authorities and officers in all legal matters pertaining to the business of the city, and discharge other required duties. The city legislative body may, for special cases, employ an attorney for the city who may or may not reside in the city and who shall receive such compensation as the city legislative body prescribes by ordinance.

Section 35. KRS 69.590 is amended to read as follows:

The board of trustees of a city of the sixth class may appoint a city attorney who shall hold office for two (2) years, subject to removal at the pleasure of the board of trustees. He shall advise the city authorities and officers in all legal matters pertaining to the business of the city. [Except as provided for by subsection (3)(b) of KRS 69.010,] The city attorney shall [prosecute all violations of the ordinances of the city and] discharge any [other] duties required by the board. The board may, for special cases, employ an attorney for the city who may or may not be a resident of the city, and who shall receive such compensation as the board of trustees prescribes by ordinance.

Section 36. KRS 132.350 is amended to read as follows:

The county clerk shall, upon the filing of a statement by an agent, accountant or attorney of the department of revenue for the assessment of omitted property, enter the name of the person signing the statement as attorney for the department, and enter the name of the county attorney as attorney for the state, county, school and other taxing districts for which the commissioner of revenue is authorized to act as relator in such proceeding. The county attorney shall appear and prosecute or assist in the prosecuting of the proceeding in all the courts to which it may be taken for trial. [If there is a judgment assessing the property for taxation, the judgment in each case shall recite whether or not the county attorney was present and assisted in the trial of the proceeding. When he is present and assists in the proceeding he shall be allowed as compensation for his services ten per cent (10%) of the amount of state and county taxes assessed and collected pursuant to the judgment. The state and county shall be liable respectively for the payment only of the percentage allowance of compensation to the county attorney on the amount that each collects, and this shall be paid to the county attorney within thirty (30) days after the collection of the taxes, and charged against the fund to which the tax was credited.]

Section 37. KRS 134.340 is amended to read as follows:

(1) The sheriff shall, when he collects money from a delinquent taxpayer, record the tax, interest and penalty on his record book kept for that purpose.

(2) If the sheriff fails to record the money collected from a delinquent taxpayer, or fails to collect the tax due from a delinquent taxpayer if it was collectible by sale or otherwise when it came to his hands, he shall be held liable on his bond for the amount of tax, penalties, interest and costs due from the delinquent taxpayer that was collectible, plus thirty per cent (30%) penalty thereon, to be recovered in the county court of the county in which the tax is due, on motion of the county attorney or agent of the department of revenue in the name of the state. The county attorney shall prosecute all such motions [, for which services he shall be entitled to the penalties thereon recovered of the sheriff, but only if the tax, interest, costs, and penalties due are recovered and paid to the officers entitled to receive the same]. The sheriff shall have ten (10) days' previous notice of the motion.

Section 38. KRS 134.400 is amended to read as follows:

(1) All penalties imposed by law, either in whole or in part, in favor of or for the benefit of agents of the department of revenue, sheriffs and other state, county or district agents or officers, upon or for the recovery of taxes or the assessment of omitted property, shall be paid into the state treasury and credited as provided for the twenty per cent (20%) penalty in subsection (2) of this section.

(2) The twenty per cent (20%) penalty collected on taxes due the state, county, school or other taxing district shall be paid into the state treasury. One-fourth (1/4) of the moneys thus received shall be credited to the general expenditure fund. The remaining three-fourths (3/4) shall also be credited to the general expenditure fund unless the general assembly, in its biennial appropriation act, provides that it be credited to a fund to be designated and known as the delinquent tax fund, in which case it shall be so credited and so much thereof as may be necessary shall be used for the administration and enforcement of the laws relating to the collection of delinquent taxes and the assessment of omitted property. All salaries, fees and expenses authorized by the

laws relating to the collection of delinquent taxes and the assessment of omitted property [, except the fees of county attorneys,] shall be payable out of the delinquent tax fund upon certifications or requisitions of the commissioner of revenue.

Section 39. KRS 134.500 is amended to read as follows:

(1) Within fifty (50) days after the issuance of a certificate of tax delinquency to the state, county and taxing district, the county attorney shall cause a notice of the purchase to be served by the sheriff on the person in whose name the property was assessed, and advise him that the certificate is a lien of record against his land that bears interest at twelve per cent (12%) per annum, and if not paid the county attorney will proceed as provided by law to collect same. A copy of the return of the sheriff shall be filed in the office of the county clerk in the manner prescribed by the department of revenue. Failure to prepare such notice shall not affect the validity of the claim of the state, county and taxing district.

(2) The county attorney shall prosecute the remedy or remedies provided in this chapter that are most likely to effect collection of the amount due on the certificate of delinquency. Upon the failure of the county attorney to give the notices provided in this section, or to prosecute the remedies for collection of certificates within twelve (12) months after the right to collect accrued, or to duly complete the performance of any other duties necessary to collect the claims of the state, county and taxing districts for taxes, the department of revenue may perform such duties.

(3) [The county attorney who prepares the notice and has it filed, as provided in subsection (1) of this section, and performs his other duties in respect to the certificate of delinquency, shall be entitled to twenty per cent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and such commission shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the commission on the amount collected for each taxing unit.] When the department performs the duties of the county attorney without his assistance or cooperation, *twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order,* [the fee which would otherwise be paid the county attorney] shall be paid to the department for deposit in the delinquent tax fund provided for under KRS 134.400.

(4) Any action on behalf of the state, county and taxing districts authorized by this section or by KRS 134.470, 134.490 or 134.540 must be filed on relation of the commissioner of revenue, and the petition shall be sent to the department, which may require revision thereof in instances where it deems revision or amendment necessary. The department shall advise the county attorney in all such actions, and may send him special assistance when the commissioner deems such assistance necessary. A copy of the judgment shall also be sent to the department. [If the department sends assistance to a county attorney who cooperates in prosecuting the suits or proceedings, the county attorney shall be entitled to his full fee.] On the same day that suit is filed the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

Section 40. KRS 134.540 is amended to read as follows:

(1) When the department of revenue has reason to believe that any sale made under the authority of section 32 of Article VIII of chapter 22 of the Acts of 1906, or section 3 of chapter 43 of the Acts of 1908, or section 2 or 5 of chapter 21 of the Acts of the first Extraordinary Session of 1938, is for any reason invalid, the invalidity may be alleged in an action to establish the lien provided for in chapter 152 of the Acts of 1934. The action shall be brought on the relation of the commissioner of revenue, who shall publish notice on the courthouse door for fourteen (14) days before instituting the action, notifying all delinquents that actions will be instituted unless the delinquent taxes against land subject to such actions are paid at once. If the owner does not redeem the land within ten (10) days after the expiration of the fourteen (14) day period, and the commissioner is required to institute action, the state shall be entitled to a fee equal to fifteen per cent (15%) of the amount of the taxes, penalties and interest, which shall be paid into the delinquent tax fund provided under KRS 134.400, to be used by the department of revenue to cover the expenses of filing and administering such actions. If the property is redeemed after action is instituted, the fee shall become a part of the redemption price. The commissioner may, if he deems necessary, institute action without giving the notice provided in this section, in which event the fifteen per cent (15%) fee shall not apply.

(2) The county attorney shall assist the department of revenue in filing and prosecuting the actions. [For these services he shall be entitled to twenty per cent (20%) of the taxes, penalties and interest. If he fails or refuses to assist in filing and prosecuting the actions, he shall not be entitled to this fee.]

(3) An action shall not be instituted on behalf of the state to establish the lien provided for in chapter 152 of the Acts of 1934 until after the expiration of the time that must expire before action to recover possession can be instituted.

Section 41. KRS 135.040 is amended to read as follows:

(1) On the return of "no property found" on an execution issued upon a judgment in favor of the state, the department of revenue may institute equitable proceedings in the Franklin Circuit Court or any other court of competent jurisdiction, in the name of the state and on the relation of the commissioner of revenue. The choses in action or other equitable estate of the delinquent shall be subjected to the payment of the amount due on any such execution.

(2) On the return to the fiscal court of any tax bill as uncollectible, a like suit may be instituted in the name of the state on the relation of the commissioner of revenue in any court of competent jurisdiction, and the choses in action or other equitable estate of the delinquent may be subjected to the amount due on any such tax bill. In such proceedings attachment may issue and other proceedings may be taken as are authorized on the return of "no property found" on an execution in favor of individuals.

(3) The county attorneys of the respective counties shall assist the department of revenue in prosecuting the actions mentioned in this section.

(4) No action shall be maintained under the provisions of subsection (1) of this section when the last execution issued has been returned "no property found" more than ten (10) years before the institution of the action, nor shall an action be maintained on an uncollectible tax bill under the provisions of subsection (2) of this section more than five (5) years after the date of the return by the sheriff or collector.

(5) Every person against whom an execution has been returned "no property found" and upon which an equitable action is instituted, as provided in subsection (1) of this section, shall be liable for a penalty of twenty per cent (20%) of the amount due on the execution. The penalty may be recovered in the action, with the amount due on the execution. The penalty shall go to the delinquent tax fund provided for under KRS 134.400 [, unless the county attorney assists in the prosecution, in which case one-half (1/2) shall go to him].

Section 42. KRS 142.030 is amended to read as follows:

[(1) To provide the revenue necessary to carry out the provisions of KRS 64.510 and 64.515,] A tax of three dollars and fifty cents ($3.50) is hereby levied upon conviction in each criminal case carrying a fine where the fine is paid into the state treasury. The funds raised by the aforesaid tax shall be paid into the *general fund of the* state treasury [, and shall be deposited into a revolving fund which hereby is created and designated the commonwealth's attorneys' expense account, and from which fund the appropriations hereunder shall be disbursed].

[(2) Any surplus in excess of forty thousand dollars ($40,000) which shall have accumulated to the commonwealth's attorneys' expense account at the close of any fiscal year shall be transferred to and become a part of the general fund of the commonwealth.]

Section 43. KRS 142.040 is amended to read as follows:

[(1) To provide the revenue necessary to carry out the provisions of KRS 69.265,] A state docket fee of three dollars and fifty cents ($3.50), in addition to fees now provided by law is hereby levied upon each conviction in each criminal case carrying a fine when the fine is paid into the state treasury. The funds raised by such tax shall be paid in the *general fund of the* state treasury [, and shall be deposited into a revolving fund which hereby is created and designated the county attorneys' state expense account, and from which fund the appropriations under KRS 69.265 shall be disbursed].

[(2) Any surplus in excess of ninety thousand dollars ($90,000) which shall have accumulated to the county attorneys' state expense account at the close of any fiscal year, subsequent to the close of the fiscal year 1961-1962, shall be transferred to and become a part of the general fund of the commonwealth.]

Section 44. KRS 150.130 is amended to read as follows:

All county attorneys and commonwealth's attorneys shall enforce the provisions of this chapter and all regulations adopted hereunder [, and they shall be paid for their services in this regard in the manner specified in KRS 150.160].

Section 45. KRS 150.160 is amended to read as follows:

[(1)] Any fine imposed for the violation of this chapter shall, when collected, [be divided as follows: forty per cent (40%) shall be given to the county attorney or commonwealth's attorney who is present and prosecutes the case and the remaining sixty per cent (60%) to the commissioner, to] be paid into the game and fish fund. [If no county or commonwealth's attorney actually prosecutes, the entire fine shall be paid into the game and fish fund.]

[(2) In the event that an appeal is taken to the circuit court from any conviction imposed pursuant to the provisions of this chapter, and in the further event that the same officer who prosecuted the violation to a successful conclusion in the lower court is not charged with and does not handle the continued prosecution of the same in the circuit court, then forty per cent (40%) of such fine as may be finally imposed in the circuit court shall, when collected, be divided equally among all of the officers actively participating in the prosecution of said case in both the lower and circuit courts.]

[(3) Every judgment entered upon the trial of any violation of this chapter shall recite whether or not the county attorney or the commonwealth's attorney, or both, was present and actively prosecuted the action on behalf of the commonwealth. Unless there is such an entry on the judgment book of the court showing the presence and participation of such officer or officers in the trial, none shall be entitled to any part of the fine.]

Section 46. KRS 211.240 is amended to read as follows:

County, [city and] commonwealth's attorneys, and the attorney general, shall, within their respective jurisdictions, prosecute all violations of the penal provisions of the public health laws of this commonwealth.

Section 47. KRS 215.300 is amended to read as follows:

Where a patient who has been or is maintained in a district sanatorium has or acquires estate that can be subjected to debt, the county attorney of the county of the patient's residence shall sue in the name of the sanatorium district and recover the amount of the patient's maintenance, or so much thereof as the estate will suffice to pay, for the time the patient was maintained herein and not otherwise paid for. When the husband, wife or parent of any patient who has been or is supported in the sanatorium has estate sufficient for the support of the patient, in addition to the support of any other persons who may be dependent on the husband, wife or parent, the county attorney shall in like manner sue and recover from the husband the amount of his wife's maintenance, from the wife the amount of her husband's maintenance, and from the parent the amount of his child's maintenance, for the time that they have been respectively maintained by the sanatorium. The statute of limitations providing the time in which actions for such recovery may be instituted shall not begin to run against the recovery provided for in this section until the estate is acquired. The suit shall create a lis pendens lien upon so much of the patient's estate as is described in the petition, and if judgment is obtained it shall constitute a lien thereon. [The county attorney shall be allowed a fee of fifteen per cent (15%) of the amount collected for his services.]

Section 48. KRS 333.250 is amended to read as follows:

(1) The operation or maintenance of an unlicensed medical laboratory in violation of this chapter is declared a nuisance, inimical to the public health, safety and welfare. The department may, in addition to other remedies herein provided, bring an action for an injunction to restrain such violation or to enjoin the future operation or maintenance of any such medical laboratory until compliance with the provisions of this chapter and the rules and regulations promulgated hereunder.

(2) [City,] County and commonwealth's attorneys and the attorney general shall, within their respective jurisdictions, enforce the penal provisions of this chapter.

Section 49. KRS 393.200 is amended to read as follows:

[If the county attorney performs all the duties imposed upon him by this chapter relating to enforcement of KRS 393.020 to 393.050 he shall be entitled to a fee of fifteen percent of any sum recovered in the proceeding, but shall be limited to five percent on intangible property recovered in excess of one thousand dollars.] If the county attorney declines to perform the duties imposed upon him by this chapter, they may be performed by the commissioner [, and the county attorney shall not be entitled to any fee]. When he considers it to the best interest of the state, the commissioner may institute any action authorized by this chapter to be brought by the county attorney, or join the county attorney in the active prosecution of any such action. [The county attorney shall be entitled to his fee in either instance if he does his duty.]

Section 50. KRS 393.210 is amended to read as follows:

If the property of a person coming within the purview of KRS 393.020 to 393.050 is located in two or more counties, all the property may be included in one action. The county attorneys of all counties in which such property is located may join in the prosecution of the proceeding. [Their fees shall be determined by the amount of money derived from the property located within their respective counties when possible to determine that figure. Otherwise, the courts shall determine their fees by equitable apportionment in accordance with the value of the property located in their respective counties.]

Section 51. KRS 393.250 is amended to read as follows:

(1) Any necessary expense required to be paid by the state in administering and enforcing this chapter shall be paid out of appropriations made to the department.

(2) The county attorney shall act as agent of the department for the collection of all judgments recovered in actions prosecuted by him under this chapter. He shall [deduct the fee allowed him and] promptly remit the *judgment recovered* [remainder] to the department with such information relating thereto as the department requires.

Section 52. The following KRS sections are repealed effective January 1, 1978: KRS 15.230, 47.115, 64.510, 64.515, 64.518, 64.520, 64.525, 69.013, 69.015, 69.020, 69.053, 69.055, 69.070, 69.080, 69.095, 69.097, 69.220, 69.250, 69.260, 69.265, 69.275, 69.276, 69.280, 69.330, 69.340, 69.430, 69.440, 69.510, 69.520, 69.530, and 69.570.

Section 53. (1) Whereas certain changes have already been made in the court of justice affecting the functions and duties of prosecutors, an emergency is declared to exist and Sections 2, 3, 5, 11(1), 12(2), and 13(1), (2), and (4) shall become effective on January 1, 1977.
(2) Sections 1, 4, 6, 7, 8, 9, 10, 11(2) and (4), 12(1), (3), (4), (5), (6) and (7), 13(3) and (5), 14, 15, and 17 through 52 shall become effective on January 1, 1978.
(3) Section 11(3) shall become effective on July 1, 1978.

The Senate Amendment to the Senate Committee Substitute is as follows:

Amend printed copy of Senate Committee Substitute for House Bill 17 on page 9, line 17, after the word "court" add "or by the urban county council"

and on page 1, line 20, by striking the words "seven (7)" and inserting in lieu thereof the words "nine (9)"

and on page 2, line 16, by inserting after the word Association and before the period the following: "and two (2) non-attorney citizen members"

and on line 20 and line 23 by striking the words "four (4)" and inserting in lieu thereof the words "five (5)"

and on page 4 line 14 by striking the words "four (4)" and inserting in lieu thereof the words "five (5)"

and on page 12, line 25, after the word compensation, insert the following: "as County Attorney"

and on page 1, the title by deleting the words "the disqualification of"

Agreed.

Representative B. Richardson moved that **HB 17,** by way of Senate Committee Substitute as amended, be passed.

On the roll call the vote was yeas 75-Ackerson, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McGill, Morris, Muncy, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 5-B. Adams, W. Allen, DeFalaise, McBride, Tobin.

HB 17, by way of Senate Committee Substitute as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 17,** by way of Senate Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative DeFalaise moved that the rules be suspended for Introduction of and action on a Resolution. Agreed.

HCR 41, by Representative DeFalaise.

HCR 41, A CONCURRENT RESOLUTION relating to a unified prosecutorial system.
WHEREAS, the concept of a unified prosecutorial system is consistent with the concept of a unified court system; and
WHEREAS, various recommendations have been made for unifying prosecution in Kentucky including that of consolidating all prosecutorial functions in a single office; and

WHEREAS, any system which drastically alters the compensation and duties of commonwealth's attorneys could probably not be instituted until the terms of present commonwealth's attorneys expire in 1982;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

That the Legislative Research Commission conduct a study of the feasibility of unifying prosecutorial functions in a single office, and that the results of the study be made available to the Interim Joint Committee on State Government and, in turn, to the General Assembly of the Commonwealth of Kentucky for possible action during the 1978 regular session.

Representative DeFalaise moved the adoption of **HCR 41.**

HCR 41 was adopted by voice vote.

Representative B. Richardson moved that consideration of the Senate Amendments to **HB 23** be deferred. Agreed.

Representative B. Richardson moved that **HB 21** be taken from Orders of the Day for consideration of the Senate Amendments. Agreed.

Representative Deskins moved that the House concur in the following Senate Amendments to **HB 21:**

Amend printed copy of House Bill 21 on page 1 by amending the title to read: "AN ACT relating to traffic matters."

and on page 11, line 26, by deleting "50" and inserting in lieu thereof "55"; and on page 12, lines 3 through 9 by removing said lines in their entirety;

and on page 10, following line 21 by adding the following:

"Section 5. (1) Sections 1, 2, 4, and subsection (4) of Section 3 of this Act shall become effective January 2, 1978.

(2) Subsections (1), (2), and (3) of Section 3 of this Act shall become effective July 1, 1977."

and on pages 10, 11, and 12 by renumbering the following sections accordingly.

Agreed.

Representative B. Richardson moved that **HB 21,** as amended by the Senate, be passed.

On the roll call the vote was yeas 60-Ackerson, A. S. Adams, J. Allen, Arnold, Bennett, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Givhan, Gray, Hancock, Holbrook, Hurst, Isler, Jones, Kenton, King, LeMaster, Lindsay, Little, Mann, May, McBee, McBride, Muncy, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Romines, Schmidt, Siler, Tobin, R. A. Turner, Vincent, White, Wible, Wright, Yates. Nays 21-B. Adams, W. Allen, Bendl, Beshear, Blythe, Clarke, Denham, Guenthner, Hardwick, Holloway, Hopkins, Kleier, Mason, McNutt, Morris, Nett, Overstreet, Robinson, Sale, Thomas, Wooden.

HB 21, as amended by the Senate, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 21,** as amended by the Senate, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **HB 23** be taken from Orders of the Day for consideration of the Senate Amendments. Agreed.

Representative B. Richardson moved that the House refuse to concur in the following Senate Amendments to **HB 23:**

Amend printed copy of House Bill 23 on page 5, line 11 delete "or if either party files with the circuit clerk his affidavit that the judge will not afford him a fair and impartial trial, or will not impartially decide an application for a change of venue,"

and on page 5, line 18 after the word "judge." add the following "If either party files with the circuit clerk his affidavit that the judge will not afford him a fair and impartial trial, or will not impartially decide an application for a change of venue, the circuit clerk shall at once certify the facts to the Chief Justice who shall immediately review the facts and determine whether to designate a regular or retired justice or judge of the Court of Justice as special judge."

and on page 68, lines 16-26 and page 69, lines 1-10 by deleting same and inserting in lieu thereof the following:

"SECTION 78. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) In any county which does not have a district judge resident in the county there shall be a trial commissioner.

(2) Trial commissioners shall be appointed in the manner required by Section 113 of the Constitution of Kentucky and shall perform such duties as may be directed by the Supreme Court.

(3) Trial commissioners in district court shall be compensated as provided in the judicial personnel system, provided, however that no trial commissioner shall be compensated at a rate greater than $7200 per year."

and on page 4, line 9, after "proceeding" add "and the disqualification is not waived by stipulation of counsel in the proceeding filed therein"

and on page 45, delete lines 10, 11 and 12, and insert in lieu thereof: "(7) Filing fees in civil actions shall be recoverable as costs."

and on page 46, delete lines 11, 12 and 13, and insert in lieu thereof: "(7) Filing fees in civil actions shall be recoverable as costs."

and on page 39, line 16, after "ity", add ", he shall be transported as necessary" and delete "at the time of his trial, he shall be delivered to the courtroom and returned to the facility during any recess of the trial."

and on page 69, following line 10, to add the following:

"(1) Sections 1, 2, 3, 4, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, and 78 of this Act shall become effective January 2, 1978.

(2) Sections 12, 13, 14, 15, 16, 17, 18, 19, and 20 of this Act shall become effective September 1, 1977. Until January 2, 1978 these Sections shall be held and construed as ancillary and supplemental to KRS Chapter 29; however, jurors called for service hereunder may not serve until January 2, 1978.

(3) Sections 7 and 8 of this Act shall become effective November 1, 1977.

(4) Sections 5, 6, 9, 10, 11, 27, 46, 47, and 76 of this Act shall become effective at the normal effective date for legislation passed at the 1976 Extraordinary Session of the General Assembly."

Agreed.

The Clerk was directed to notify the Senate that the House has refused to concur in the Senate Amendments to **HB 23.**

Representative B. Richardson moved that consideration of the Senate Amendments to **HB 20** be deferred. Agreed.

Representative B. Richarson moved that **HB 15** be taken from Orders of the Day for consideration of the Senate Amendment. Agreed.

Representative Kleier moved that the House concur in the following Senate Amendment to **HB 15:**

Amend printed copy of House Bill 15 on page 2, line 20, by inserting after the word "Welfare" the following words: "except as provided in subsection (2) of this section"

and on page 3, line 7, by inserting after the word "organization" the following words:

"; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside, the state employes may annually be given the option to elect either standard hospitalization coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside"

and on page 6, line 21, by inserting in front of the word "*urban-county*" the following words: "*city, county,*"

and on page 6, line 22, by inserting in front of the word "*urban-county*" the following words: "*city, county,*"

and by inserting after the word "*government*" the following words: "*or any other political subdivision of the state*"

and on page 6, line 26, by inserting in front of the word "*urban-county*" the following words: "*city, county,*"

and on page 7, line 1, by inserting in front of the word "*urban-county*" the following words: "*city, county,*"

and by inserting after the word "*government*" the following words: "*or any other political subdivision of the state*"

Agreed.

Representative B. Richardson moved that **HB 15,** as amended by the Senate, be passed.

On the roll call the vote was yeas 73-Ackerson, B. Adams, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, Cyrus, DeFalaise, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Hurst, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Thomas, Vincent, White, Wible, Wooden, Wright. Nays 4-DeMarcus, Denham, Tobin, R. A. Turner.

HB 15, as amended by the Senate, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 15,** as amended by the Senate, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **HB 16** be taken from Orders of the Day for consideration of the Senate Amendment. Agreed.

Representative B. Richardson moved that the House concur in the Senate Amendment to **HB 16:**

Amend printed copy of House Bill 16, on page 1, lines 9 and 10 by deleting the words "costs incurred in the operation and maintenance of a court for:" and inserting in lieu thereof the following "the average costs incurred by a city or county, as computed from the 1973-74, 1974-75, 1975-76 fiscal years, in the operation and maintenance of a court for:"

Agreed.

Representative B. Richardson moved that **HB 16,** as amended by the Senate, be passed.

On the roll call the vote was yeas 75-Ackerson, B. Adams, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Brinkley, Brown, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Gray, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Tobin, Thomas, R. A. Turner, Vincent, Wooden, Wright. Nays 0.

HB 16, as amended by the Senate, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 16,** as amended by the Senate, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **HB 14** be taken from Orders of the Day for consideration of the Senate Committee Substitute. Agreed.

Representative Clapp moved that the House concur in the Senate Committee Substitute for **HB 14.**

Representative Hopkins moved that consideration of Senate Committee Substitute for **HB 14** be deferred.

On the roll call the vote was yeas 35-Ackerson, Bendl, Benson, Beshear, Boatwright, Brown, Burnette, Carpenter, Crupper, DeMarcus, Deskins, Freeman, Hardwick, Holbrook, Hopkins, Hurst, Isler, Kidd, King, Kleier, Mann, Mason, McBride, McGill, McNutt, Muncy, O'Brien, Overstreet, Sale, Siemens, Vincent, Wible, Wooden, Wright, Yates. Nays 30-B. Adams, A. S. Adams, Bennett, Blythe, Bruce, Clapp, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, Denham, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Kenton, Lindsay, Morris, Richards, B. Richardson, P. Richardson, Romines, Tobin, Thomas.

The motion that consideration of Senate Committee Substitute for **HB 14** be deferred was adopted.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 20, SB 23,** and **SB 24** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

Representative B. Richardson moved that **HB 20** be taken from Orders of the Day for consideration of the Senate Amendment. Agreed.

Representative B. Richardson moved that the House not concur in the following Senate Amendment to **HB 20:**

Amend printed copy of House Bill 20 on page 9, line 19, by adding the following at the end thereof:

Population of County	1978 Annual Salary
0 - 4,999	$ 9,000
5,000 - 9,999	14,000
10,000 - 14,999	17,000
15,000 - 19,999	19,000
20,000 - 29,999	20,000
30,000 - 39,999	21,000

40,000 - 49,999	21,500
50,000 - 99,999	22,000
100,000 - 499,999	22,500
500,000 - and up	25,000

For purposes of determining movement of circuit court clerk salaries from calendar year 1976 level to the maximums for calendar year 1978 as outlined above, the following guidelines should be used.

1. The actual calendar year 1976 salary of the Circuit Court Clerk, as certified by the Administrative Office of the Courts from information supplied by the Auditor of Public Accounts, will be adjusted to the 1977 cost of living increase to be determined by the Kentucky Department of Commerce. This adjusted figure will be the base to compare with the salary maximums outlined above.

2. Those clerks whose base, as determined in 1. above, does not reach the maximums outlined above, will be allowed yearly increases up to 20% of the base, not to exceed the maximums outlined above.

3. Those clerks whose base, as determined in 1. above, is equal to or greater than the maximums outlined above, will be allowed a one time 10% adjustment to their base salary as determined in 1. above.

4. The initial population determination for compensation under this Section of this Act shall be based on the 1970 Federal Census or the "Final" issue of "Current Population Reports, 1974" issued by the United States Bureau of The Census, whichever is greater. In 1981 and thereafter, population shall be based on the decennial census.

and by deleting on page 9, lines 20-26;

and on pages 10, 11, 12, and 13 by deleting same in their entirety;

and on page 14, lines 1-12 by deleting same.

Representative Yates moved that the House adjourn until Monday, December 20, 1976.

On the roll call the vote was yeas 25-Ackerson, A. S. Adams, Bendl, Blythe, Brown, Bruce, Crupper, Dawahare, Dietz, Doss, Dunn, Gray, Guenthner, Hancock, King, Kleier, McBee, Nett, O'Brien, Robinson, Romines, Tobin, Wooden, Wright, Yates. Nays 45-B. Adams, J. Allen, Bennett, Benson, Beshear, Bevins, Boatwright, Burnette, Clapp, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Foster, Freeman, Givhan, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Isler, Kenton, LeMaster, Mann, Mason, McBride, McNutt, Muncy, Overstreet, Pearl, Richards, B. Richardson, Sale, Schmidt, Siemens, R. A. Turner, Vincent, Wells, Wible.

The motion to adjourn was rejected.

Representative B. Richardson moved that the House not concur in the Senate Amendment to **HB 20.** Agreed.

The Clerk was directed to notify the Senate that the House does not concur in the Senate Amendment to **HB 20.**

Representative B. Richardson moved that **SB 5** be taken from Orders of the Day for the purpose of asking the House to recede in Floor Amendment No. 6. Agreed.

Representative B. Richardson moved that the House recede from its Floor Amendment No. 6 to **SB 5.** Agreed.

Representative B. Richardson moved that **SB 5,** as amended excluding Floor Amendment No. 6, be passed.

On the roll call the vote was yeas 77-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blythe, Boathwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Tobin, R. A. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

The motion that **SB 5,** as amended excluding Floor Amendment No. 6, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 5,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **HB 14** be taken from Orders of the Day for consideration of the Senate Committee Substitute. Agreed.

Representative B. Richardson moved that the House concur in the following Senate Committee Substitute for **HB 14:**

HB 14, AN ACT relating to capital punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 507.020 is amended to read as follows:

(1) A person is guilty of murder when:

(a) With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of manslaughter in the first degree or any other crime; or

(b) Under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to another person and thereby causes the death of another person.

(2) Murder is a capital offense.

[(2) Murder is a Class A felony, except that in the following situations it is a capital offense:

(a) The defendant's act of killing was intentional and was for profit or hire;

(b) The defendant's act of killing was intentional, and occurred during the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, or rape in the first degree;

(c) The defendant's act of killing was intentional and the defendant was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties;

(d) The defendant's act of killing was intentional and the death was caused through use of a destructive device, as defined in KRS 237.030(1);

(e) The defendant's act or acts of killing were intentional and resulted in multiple deaths; or

(f) The defendant's act of killing was intentional and the victim was a police officer, sheriff or deputy sheriff engaged at the time of the act in the lawful performance of his duties.]

SECTION 2. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1)(a) Upon conviction of a defendant in cases where the death penalty may be imposed a hearing shall be conducted. In such hearing the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas: Provided, however, that only such evidence in aggravation as the State has made known to the defendant prior to his trial shall be admissible. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment.

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in subsection (a) of this section. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and whether to recommend mercy for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating circumstances which may be supported by the evidence:

(a) The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions.

(b) The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, or rape in the first degree.

(c) The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one person in a public place by means of a destructive device weapon or other device which would normally be hazardous to the lives of more than one person.

(d) The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit.

(e) The offense of murder was committed by a person who was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties.

(f) The offender's act or acts of killing were intentional and resulted in multiple deaths.

(g) The offender's act of killing was intentional and the victim was a police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties.

(3) The instructions as determined by the trial judge to be warranted by the evidence shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In non-jury cases the judge shall make such designation. In all cases unless at least one of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the dealth penalty shall not be imposed.

Section 3. KRS 532.030 is amended to read as follows:

(1) When a person is convicted of a capital offense he shall have his punishment fixed at death *or imprisonment in accordance with Section 4 of this Act.* [However, any crime classified as a capital offense may at the discretion of the state be prosecuted as a Class A felony, provided such election to so prosecute is made at the time of indictment.]

(2) When a person is convicted of a Class A felony he shall have his punishment fixed at imprisonment in accordance with KRS 532.060.

(3) When a person is convicted of an offense other than a capital offense or Class A felony, he shall have his punishment fixed at:

(a) A term of imprisonment authorized by this chapter; or

(b) A fine authorized by KRS Chapter 534; or

(c) Both imprisonment and a fine unless precluded by the provisions of KRS Chapter 534.

SECTION 4. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

A sentence for a capital offense shall be death or a sentence of life or a term of not less than twenty years.

Section 5. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the bureau of corrections for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the bureau of corrections with directions that the sentence be carried out according to law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the death penalty is imposed for a capital offense, and upon the judgment becoming final in the circuit court, the sentence shall be reviewed on the record by the Surpeme Court. The circuit clerk, within ten (10) days after receiving the transcript, shall transmit the entire record and transcript to the

Supreme Court together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court.

(2) The Surpeme Court shall consider the punishment as well as any errors enumerated by way of appeal.

(3) With regard to the sentence, the court shall determine:

(a) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor, and

(b) Whether the evidence supports the jury's or judge's finding of statutory aggravating circumstances as enumerated in subsection (2) of Section 2 of this act and

(c) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

(4) Both the defendant and the Commonwealth shall have the right to submit briefs within the time provided by the court, and to present oral argument to the court.

(5) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, shall be authorized to:

(a) Affirm the sentence of death; or

(b) Set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the Supreme Court in its decision, and the extracts prepared as hereinafter provided for, shall be provided to the resentencing judge for his consideration.

(6) The Chief Justice shall assign to an administrative assistant who is an attorney the following duties:

(a) To accumulate the records of all felony offenses in which the death penalty was imposed after January 1, 1970, or such earlier date as the court may deem appropriate.

(b) To provide the court with whatever extracted information it desires with respect thereto, including but not limited to a synopsis or brief of the facts in the record concerning the crime and the defendant.

(c) To compile such data as are deemed by the Chief Justice to be appropriate and relevant to the statutory questions concerning the validity of the sentence.

(7) The administrative office of the courts shall provide such staff, services, and data as are necessary to proper consideration of any matter relating to the imposition of the death penalty in any case.

(8) The sentence review shall be in addition to the direct appeal, if taken, and the review and appeal shall be consolidated. The court shall render its decision on legal errors enumerated, the factual substantiation of the verdict, and the validity of the sentence.

Section 7. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any county or circuit court may, upon motion of the defendant made not earlier than thirty (30) days nor later than sixty (60) days after the defendant has been delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon such terms as the court determines. The court which tried the defendant may also suspend the sentence and place the defendant on probation upon its own motion, made within the same thirty-day period.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(4) The provisions of this section shall not apply where a sentence of death has been imposed.

Section 8. Whereas, the legislature finds an urgent need to protect the health, safety, and general welfare of the citizens of the Commonwealth, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor.

On the roll call the vote was yeas 13-B. Adams, Bennett, Blythe, Bruce, Clapp, Craddock, Foster, Guenthner, Morris, Richards, B. Richardson, P. Richardson, Tobin. Nays 51-Ackerson, Arnold, Bendl, Benson, Beshear, Bevins, Blume, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clarke, Crupper, Cyrus, DeFalaise, Denham, Deskins, Dietz, Dunn, Fitzgerald, Floyd, Freeman, Gray, Holbrook, Holloway, Hopkins, Isler, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, McBee, McBride, McGill, McNutt, Nett, O'Brien, Overstreet, Pearl, Sale, Schmidt, Siemens, R. A. Turner, Wible, Wooden, Wright, Yates.

The motion that the House concur in the Senate Committee Substitute for **HB 14** was rejected.

The Clerk was directed to notify the Senate that the House refused to concur in the Senate Committee Substitute for **HB 14.**

Recess

Representative B. Richardson moved that the House recess for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day (continued)

Representative B. Richardson moved that the rules be suspended to waive the time element for posting of **SB 17.** Agreed.

SB 17, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Amendment to **SB 17.** Agreed.

Representative Donnermeyer moved that **SB 17,** as amended, be passed.

On the roll call the vote was yeas 67-J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Isler, Kenton, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McGill, McNutt, Morris, Nett, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Sale, Schmidt, Siemens, Siler, Thomas, R. A. Turner, Wells, White, Wible, Wright, Yates. Nays 4-Denham, McBride, Romines, Tobin.

SB 17, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **SB 17,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Robinson moved that **HB 43** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Senate Message

The following messages were received from the Senate in regard to **HB 23, HB 20,** and **HB 14:** The Senate has refused to recede from its amendment to **HB 23, HB 20,** and **HB 14** and respectfully requests a Conference Committee be appointed in the House to meet with a like Committee of the Senate.

Announcing passage of **HB 28** with amendment, **HB 30.**

Orders of the Day (continued)

The following Conference Committees from the House were appointed: HB 23, Representatives Lindsay, Givhan, Wible; **HB 20,** Representatives Clarke, Fitzgerald, Schmidt; **HB 14,** Representatives DeFalaise, King, Clarke.

Recess

Representative B. Richardson moved that the House recess for fifteen minutes for Conference Committee meetings. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

The following message was received from the Senate in regard to **HB 5:** The Senate has refused to recede from its amendment to House Bill No. 5 and respectfully requests a Conference Committee be appointed in the House to meet with a like Committee from the Senate.

Orders of the Day (continued)

The following Conference Committee from the House was appointed: **HB 5,** Representatives Gray, Hancock, Blume.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 21** and **HB 30** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

Representative Wible reported the Conference Committee on **HB 23** could not agree and requested the appointment of a Free Conference Committee. The Speaker appointed Representatives Givhan, Lindsay, and Wible as members of the Free Conference Committee on **HB 23.**

Representative Fitzgerald reported the Conference Committee on **HB 20** could not agree and requested the appointment of a Free Conference Committee. The Speaker appointed Representatives Clarke, Fitzgerald, and Schmidt as members of the Free Conference Committee on **HB 20.**

Representative Clarke reported the Conference Committee on **HB 14** could not agree and requested the appointment of a Free Conference Committee. The Speaker appointed Representatives DeFalaise, King, and Clarke as members of the Free Conference Committee on **HB 14.**

Representative B. Richardson moved that **HB 28** be taken from Orders of the Day for consideration of the Senate Amendment. Agreed.

Representative B. Richardson moved that the House concur in the following Senate Amendment to **HB 28:**

Amend printed copy of House Bill 28 on page 20, line 13 after the word "*section*" by adding the following: "; *provided, however, that the Governor may assign the regulatory authority under this subsection to another board or agency pursuant to KRS 12.025*";

and on page 20, lines 14-26 by deleting same;

and on page 21, lines 1-6 by deleting same.

Agreed.

Representative B. Richardson moved that **HB 28,** as amended by the Senate, be passed.

On the roll call the vote was yeas 67-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Gray, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Isler, Jones, Kenton, King, LeMaster, Mann, Mason, May, McBee, McBride, McNutt, Nett, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, Wells, White, Wooden, Yates. Nays 0.

HB 28, as amended by the Senate, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 28,** as amended by the Senate, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Benson moved that the rules be suspended for the introduction of and action on a Resolution. Agreed.

HR 40, by Representatives Benson and O'Brien.

HR 40, A RESOLUTION honoring the 1976 Seneca High School Redskins for reaching the Jefferson County 4-A football championship.

WHEREAS, the Seneca High School Redskins, under head coach Joe Blankenship, amassed a perfect 12-0 record in reaching the Jefferson County 4-A football championship; and

WHEREAS, the Redskins' victories included seven shutouts, two of which occurred during the county playoffs; and

WHEREAS, the Redskin defensive team intercepted 36 passes and allowed opponents to score only 37 points, while the offensive team scored a total of 333 points during the season; and

WHEREAS, the Redskins' performance enhanced Seneca's long tradition of athletic excellence;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Coach Joe Blankenship and the 1976 Seneca High School football team be honored for their accomplishments in reaching the Jefferson County 4-A championship.

Section 2. That the Clerk of the House be directed to send copies of this resolution to the principal, athletic director, and head football coach of Seneca High School.

HR 40 was adopted by voice vote.

The following members requested their votes be recorded as follows: Representative Donnermeyer, "yea" on **SB 1, SB 15;** Representative Hancock, "yea" on Floor Amendment No. 1 to **SB 20;** "nay" on **SB 24;** Representative Romines, "yea" on concurrence in Senate Amendment to **HB 28;** Representative McNutt, "yea" on **HB 10;** Representative Bennett, "yea" on concurrence to Senate Amendment to **HB 28.**

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Donnermeyer, **HB 27;** Representative White, **HB 4;** Representative Stephens, **HB 28;** Representative B. Adams, HB 4; Representative J. Richards, **HB 4, HB 28;** Representative Foster, **HB 4, HB 6, HB 14.**

Recess

Representative B. Richardson moved that the House recess until 6:15 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage of **HB 32.**

Orders of the Day (continued)

Representative Blume reported that the Conference Committee on **HB 5** could not agree and requested that a Free Conference Committee be appointed. The Speaker appointed Representatives Blume, Gray, and Hancock as members of the Free Conference Committee on **HB 5.**

Representative Givhan moved that the rules be suspended for the purpose of adoption of Legislative Citations. Agreed.

Representative Givhan moved the adoption of the following Legislative Citation No. 11:

The House of Representatives of the Commonwealth of Kentucky hereby honors Edith Schwab for her timeless efforts and good humor on behalf of all members of the General Assembly who recognize her abilities and utilize them to their fullest. Her guidance in legislative drafting is invaluable to this body and the staff of the Legislative Research Commission. (Sponsored by Representative Givhan)

Agreed.

Representative Givhan moved the adoption of the following Legislative Citation No. 12:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the untiring efforts of Mr. Bob Bowman in assisting members of this body with legislative proposals related to the Judicial Article. Mr. Bowman has given freely of his time and talents over the last several months and has proven to be a dedicated public servant. (Sponsored by Representative Givhan)

Agreed.

Representative Fitzgerald moved the adoption of the following Free Conference Committee Report with Amendment to **HB 20:**

The Free Conference Committee on House Bill 20 has met and reports as follows: That House Bill 20 be amended as follows: Page 9, line 19 by adding the following at the end thereof:

Population of County	1978 Annual Salary
0 - 4,999	$ 9,000
5,000 - 9,999	14,000
10,000 - 14,999	17,000
15,000 - 19,999	19,000
20,000 - 29,999	20,000
30,000 - 39,999	21,000
40,000 - 49,999	21,500
50,000 - 99,999	22,000
100,000 - 499,999	22,500
500,000 - and up	25,000

For purposes of determining movement of circuit court clerk salaries from calendar year 1976 level to the maximums for calendar year 1978 as outlined above, the following guidelines should be used.

1. The actual calendar year 1976 salary of the Circuit Court Clerk, as certified by the Administrative Office of the Courts from information supplied by the Auditor of Public Accounts, will be adjusted to the 1977 cost of living increase to be determined by the Kentucky Department of Commerce. This adjusted figure will be the base to compare with the salary maximums outlined above.

2. Those clerks whose base, as determined in 1. above, does not reach the maximums outlined above, will be allowed yearly increases up to 20% of the base, not to exceed the maximums outlined above.

3. Those clerks whose base, as determined in 1. above, is equal to or greater than the maximums outlined above, will be allowed a one time 10% adjustment to their base salary as determined in 1. above.

4. The initial population determination for compensation under this Section of this Act shall be based on the 1970 Federal Census or the "Final" issue of "Current Population Reports, 1974" issued by the United States Bureau of The Census, whichever is greater. In 1981 and thereafter, population shall be based on the decennial census.

and by deleting on page 9, lines 20-26;

and on pages 10, 11, 12, and 13 by deleting same in their entirety;

and on page 14, lines 1-12 by deleting same.

Agreed.

Representative Fitzgerald moved that **HB 20,** by way of Free Conference Committee Report as Amended, be passed.

On the roll call the vote was yeas 68-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Isler, Jones, Kenton, King, Kleier, LeMaster, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Nett, O'Brien, Pearl, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Thomas, Vincent, Wells, Wible, Wright. Nays 2-Lindsay, Tobin.

HB 20, by way of Free Conference Committee Report as Amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 20,** by way of Free Conference Committee Report as Amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 15, HB 16, HB 17, HCR 26,** and HB 28 had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 15, HB 16, HB 17, HCR 26, HB 28, HB 21, and **HB 30** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Senate Message

HB 20 returned with the following letter: The Senate has concurred in the Free Conference Report on House Bill No. 20 and respectfully returns same to this Honorable Body for its concurrence and Enrollment.

Orders of the Day (continued)

Representative Wible moved the adoption of the following Free Conference Committee Report on **HB 23:**

The members of the Free Conference Committee having met to consider HB 23 and the amendments thereto, have agreed as follows:

Page 35, line 3, after the word "shall" delete the rest of the line, delete lines 4, 5 and 6 in their entirety, and on line 7, delete "(b) He shall",

and in Senate Amendment 6, Subsection 1, line 1 thereof, delete the number "4," and in Subsection 4, after the word "Sections", insert the number "4,".

Agreed.

Representative Wible moved that **HB 23,** as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was yeas 62-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Blythe, Boatwright, Brinkley, Brown, Carpenter, Clapp, Clarke, Craddock, Cyrus, DeFalaise, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Hurst, Isler, Jones, Kenton, King, LeMaster, Lindsay, Mann, Mason, May, McBride, McGill, McNutt, Morris, Nett, O'Brien, Pearl, Richards, B. Richardson, Romines, Sale, Schmidt, Stephens, Tobin, Thomas, Vincent, Wells, White, Wible, Wright. Nays 7-Beshear, DeMarcus, Denham, Kleier, McBee, Robinson, Siemens.

HB 23, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 23**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Blume moved the adoption of the following Free Conference Committee Report on **HB 5:**

The Free Conference Committee Reports that it agreed that the Senate recede from its amendment to House Bill 5 and that House Bill 5 be amended as follows:

On Page 1 line 11 after the word "the" and before the word "expansion" insert the word "unreasonable" and on page 3 line 2 by striking the period and inserting after the word "both" the following:

"Except in cases of an unreasonable expansion of the normal compliment of peace officers where the remedy shall be by injunctive relief."

Senate Message

HB 23 returned with the following letter: The Senate has concurred in the Free Conference Report on House Bill No. 23 and respectfully returns same to this Honorable Body for its concurrence and enrollment.

Orders of the Day (continued)

HB 5 continued

Representative J. Allen moved that consideration of **HB 5** be postponed indefinitely.

On the roll call the vote was yeas 28-Ackerson, J. Allen, Bendl, Bennett, Beshear, Blandford, Boatwright, Brinkley, Burnette, Cyrus, Deskins, Doss, Dunn, Fitzgerald, Gray, Hardwick, Isler, Kleier, Mann, McBee, McBride, Nett, Romines, Siemens, Siler, Thomas, Wible, Wright. Nays 34-B. Adams, Arnold, Bevins, Blythe, Carpenter, Clapp, Craddock, DeFalaise, Denham, Foster, Givhan, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Jones, Kenton, LeMaster, Lindsay, Mason, May, McNutt, Morris, Pearl, Richards, B. Richardson, Robinson, Sale, Schmidt, Stephens, Tobin, Vincent, Wells.

The motion that consideration of **HB 5** be postponed indefinitely was rejected.

On the roll call the vote was yeas 32-B. Adams, Arnold, Bevins, Blythe, Carpenter, Clapp, Craddock, Denham, Foster, Gray, Guenthner, Hancock, Holbrook, Holloway, Hurst, Jones, LeMaster, Lindsay, McGill, McNutt, Morris, O'Brien, Pearl, Richards, B. Richardson, Robinson, Sale, Schmidt, Stephens, Tobin, Vincent, Wells. Nays 27-Ackerson, J. Allen, Bennett, Blandford, Brinkley, Clarke, Cyrus, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Isler, King, Kleier, Little, Mason, McBee, McBride, Muncy, Nett, Romines, Siemens, Thomas, White, Wible, Wright.

The motion that the Free Conference Committee report on **HB 5** be adopted was adopted.

Representative B. Richardson moved that consideration of **HB 5** be deferred until the House was in possession of the Bill. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 32** had been examined and found correctly enrolled. **HB 32** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 32 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

Representative B. Richardson moved that the vote by which **HB 23,** as amended by the Free Conference Committee Report, was passed be reconsidered, since **HB 23** was not in possession of the House when previously acted upon. Agreed.

Representative B. Richardson moved that **HB 23,** as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was yeas 59-B. Adams, J. Allen, Arnold, Bendl, Bevins, Blandford, Blythe, Boatwright, Brinkley, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, DeFalaise, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holloway, Hopkins, Hurst, Isler, Kenton, King, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Nett, O'Brien, Pearl, Richards, B. Richardson, Romines, Sale, Siler, Stephens, Tobin, Thomas, Vincent, Wells, White, Wible, Wright. Nays 4-Beshear, Holbrook, Jones, Siemens.

HB 23, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 23,** as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that the vote by which **HB 20,** as amended by the Free Conference Committee Report, was passed be reconsidered, since **HB 20** was not in possession of the House when previously acted upon. Agreed.

Representative B. Richardson moved that **HB 20,** as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was yeas 68-B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, DeFalaise, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Isler, Jones, Kenton, King, Kleier, LeMaster, Mann, Mason, May, McBee, McBride, McGill, McNutt, Morris, Nett, O'Brien, Pearl, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Thomas, Vincent, Wells, White, Wible, Wright. Nays 2-Lindsay, Tobin.

HB 20, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 20,** as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

HB 5 returned with the following letter: The Senate has concurred in the Free Conference Report on House Bill No. 5 and respectfully returns same to this Honorable Body for its concurrence and enrollment.

HB 14 returned with the following letter: The Senate has concurred in the Free Conference Report on House Bill No. 14 and respectfully returns same to this Honorable Body for its concurrence and enrollment.

Orders of the Day (continued)

Representative Clarke moved the adoption of the following Free Conference Committee Report on **HB 14:**

The Free Conference Committee on House Bill 14 has met and reports as follows:

That Committee Substitute for House Bill 14 be amended as follows:

On page 4, line 7, delete the word "whether"; delete the word "mercy"; and after the word "recommend" insert "a sentence".

Page 4, line 15, after aggravating add "or mitigating".

Page 4, line 16, after line 16 add "(a) Aggravating Circumstances".

Page 4, line 17, delete "(a)" and add "(1)"

Page 4, line 22, delete "(b)" and add "(2)"

Page 4, line 26, after "degree" add ", or sodomy in the first degree"

Page 5, line 1, delete "(c)" and add "(3)"

Page 5, line 7, delete "(d)" and add "(4)"

Page 5, line 11, delete "(e)" and add "(5)"

Page 5, line 15, delete "(f)" and add "(6)"

Page 5, line 17, delete "(g)" and add "(7)"

Page 5, line 18, after "a" add "state or local public official or"

Page 5, after line 20 add "(b) Mitigating Circumstances"

After line 20 add:

"(1) The defendant has no significant history of prior criminal activity.

(2) The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime.

(3) The victim was a participant in the defendant's criminal conduct or consented to the criminal act.

(4) The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime.

(5) The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor.

(6) The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime.

(7) At the time of the capital offense the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental disease or defect or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime.

(8) The youth of the defendant at the time of the crime."

Agreed.

Representative B. Richardson moved that **HB 14,** as amended by Free Conference Committee Report, be passed.

On the roll call the vote was yeas 56-B. Adams, J. Allen, Arnold, Bennett, Beshear, Bevins, Blandford, Boatwright, Brown, Burnette, Carpenter, Clapp, Craddock, Cyrus, DeFalaise, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Isler, Jones, King, LeMaster, Lindsay, Mason, May, McNutt, Morris, O'Brien, Pearl, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Vincent, Wells, White, Wible, Wright. Nays 10-Bendl, Benson, Blythe, Clarke, Kenton, Kleier, Mann, McBride, McGill, Nett.

HB 14, as amended by Free Conference Committee Report, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 14,** as amended by Free Conference Committee Report, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **HB 5,** as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was yeas 41-B. Adams, Arnold, Bevins, Blythe, Carpenter, Clapp, Clarke, Craddock, DeFalaise, Denham, Donnermeyer, Foster, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Jones, Kenton, King, LeMaster, Lindsay, Mason, May, McNutt, Morris, O'Brien, Pearl, Richards, B. Richardson, Robinson, Sale, Schmidt, Stephens, Tobin, Vincent, Wells, White, Wible. Nays 24-J. Allen, Bennett, Benson, Beshear, Blandford, Brinkley, Burnette, Cyrus, Deskins, Doss, Dunn, Fitzgerald, Givhan, Gray, Isler, Kleier, Mann, McBride, McGill, Nett, Romines, Siemens, Siler, Wright.

HB 5, as amended by the Free Conference Committee Report, was defeated.

Representative B. Richardson moved that consideration of all other bills in Orders of the Day be deferred. Agreed.

Representative J. Allen moved that the vote by which **HB 5,** as amended by the Free Conference Committee Report, was defeated be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 30-J. Allen, Bennett, Benson, Beshear, Bevins, Craddock, Cyrus, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Isler, Jones, Kenton, Kleier, LeMaster, Lindsay, Mann, Mason, McBride, B. Richardson, Romines, Sale, Vincent, Wible, Wright. Nays 15-B. Adams, Arnold, Blythe, Guenthner, Hancock, Holbrook, Holloway, Hopkins, McNutt, Morris, Pearl, Robinson, Schmidt, Stephens, Tobin.

The motion that the vote by which **HB 5,** as amended by the Free Conference Committee Report, was defeated be reconsidered and said motion be postponed indefinitely was adopted.

Representative B. Richardson moved that the House consider no other business other than receiving Senate Messages and Enrollment of Bills. Agreed.

Representative B. Richardson moved the adoption of the following **HCR 42:**

HCR 42, A CONCURRENT RESOLUTION to adjourn the 1976 Extraordinary Session of the General Assembly *sine die.*

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

That when the House of Representatives and the Senate adjourn on Saturday, December 18, 1976, they do adjourn *sine die.*

HCR 42 was adopted by voice vote.

Representative B. Richardson moved that when the House adjourns, it do so by voice vote. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 17, SB 5, SB 15, SB 12, SB 1,** HB 20, **HB 23,** and **HB 14** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 20, HB 23, and **HB 14** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Announcements

Representative B. Richardson moved that the Chair appoint a Committee to inform the Senate that the House had concluded all business and to join a like Committee from the Senate to wait upon the Governor to inquire if he had further business to communicate to the General Assembly.

The Speaker appointed the following Committee: Representatives B. Richardson, Donnermeyer, and Isler.

Senate Message

Announcing passage of **HCR 42.**

Adjournment

The Committee from the House met with a like Committee from the Senate and Representative B. Richardson reported that the Governor thanked them and requested that the House receive the following communication and that it be spread on the Journal of the House.

The Honorable Thelma L. Stovall
Lieutenant Governor
The Honorable William G. Kenton
Speaker of the House
State Capitol
Frankfort, Kentucky 40601

Dear Governor Stovall and Speaker Kenton:

I have received your communication that the work of the 1976 Extraordinary Session is completed and that the House and Senate stand ready for adjournment *sine die.*

I respectfully request that you receive this communication and that it be spread on the journals of the House and Senate if you deem such action appropriate at the close of this historic session.

This legislature sought to be prepared for the session through the effective use and diligent application of the many special and interim committees. I want to again express my sincere appreciation to the members of the special interim committee on the judicial article and particularly to Senator William Sullivan and Representative Charles Wible for their unselfish and objective leadership and direction. I congratulate both the majority and minority parties for their non-partisan approach to the implementation of the balance of our new Court of Justice.

Most importantly, I want to express, on behalf of the taxpayers of Kentucky, sincere appreciation to the members of the legislature for responsibly facing the challenge of financing our new system of justice within available budgetary resources. I am convinced that the legislature has done the best job possible in analyzing the needs of our judicial system within the context of total demands on the budget, and in arriving at budgetary decisions which, on one hand, provide adequate funding for the judicial branch, and yet, on the other hand, fully respect the ability of Kentucky's taxpayers to support all needed services. Common sense, conservatism, and responsible compromise have been the guideposts for your decisions. As a result, our citizens will not experience any significant reduction of services in other areas in order to fund the judicial system, nor did you suggest any tax increase for that purpose.

Certainly, there have been disagreements on matters which came before you, as will always occur when separate but equal branches of government seek to balance needs against available dollars. But those disagreements have taken a back seat to the sense of fundamental purpose which has prevailed throughout your proceedings. That fundamental purpose, pursued by all who have been involved in this historic occasion, has been to serve the best interests of all Kentuckians.

I also feel it is appropriate and fitting that I again applaud the Chief Justice, other members of the Supreme Court, the Administrative Office of the Courts, and the entire judicial branch of government for their cooperation in charting the complex course for implementation of the people's mandate in the constitutional amendment.

You have, in my judgment, fully met the challenges which were addressed to you when you convened here December 1. Our challenge now, to which I pledge my full cooperation, is to move forward with that which you have enacted, firm in our determination to make it successful, yet aware it is not perfect and, consequently, flexible enough for change as experience so dictates. Thereby, we will continue to serve the high purpose forged by our mutual responsibilities and demanded by Kentucky's people.

Sincerely,

Julian M. Carroll
Governor

Representative B. Richardson moved that the reading of the Journal of December 18, 1976, be dispensed with and the same approved. Agreed.

Representative B. Richardson moved that the Journal of the House of Representatives for the First Extraordinary Session of 1976 be approved. Agreed.

Representative B. Richardson moved that the House adjourn sine die.

The motion that the House adjourn sine die was adopted by voice vote.

The Journal of the House of Representatives was read, compared and approved. The House adjourned sine die.

s/William G. Kenton
APPROVED: William G. Kenton, Speaker
House of Representatives

s/Sara Bell
ATTEST: Sara Bell, Chief Clerk
House of Representatives

HISTORY OF HOUSE BILLS

(Numbers refer to page of House Journal. The text of a resolution is given on first reading or adoption. Joint resolutions are designated HJR: concurrent resolutions are designated HCR.)

		Intro-duced	Re-ferred	Re-ported		Readings		House Message	En-rolled	Sub. or Amend	Voting	Other Action
					1st	2nd	3rd					
HB	1	17	18	99	102	107	194			194	195	18 32 96 193 194
HB	2	17	18	86	88	107		448	453			61 96 108 128
HB	3	17	18	22	22	28	31	135	149		31	18 31
HB	4	17	17	161 254	161	193	295	460	465	163 166 254	295	18 160 193 206 258 291 445 491
HB	5	17	18	22	22	28	97	198		23 97 98 494	98 497	18 31 34 58 466 490 491
HB	6	17	18	106	106	132	201	448	453	107	201	31 149 206 491
HB	7	17	18									127
HB	8	17	18	21	21	28	98	294	299	22	98	18 57 84
HB	9	17	18									58
HB	10	17	18	117 192	117	132	292	460	465	121 124 192 293	293	31 149 193 206 445 491
HB	11	17	18									58
HB	12	17	18	110	110	132				114		31 132 134 149 158 201 258

	Introduced	Referred	Reported	Readings			House Message	Enrolled	Sub. or Amend	Voting	Other Action
				1st	2nd	3rd					
HB 13	17	18									18
HB 14	17	18	124 150	124	132	211	466	497	211 213 486 495	214 496	24 31 34 109 149 193 202 299 444 489 490 491
HB 15	17	18	86	86	107	195	448	493	88 195 483	195 483	61 128 159 202 206
HB 16	17	18	114 185	114	132	293	460	493	115 185 484	293 484	28 96 134 149 158 206 444 445
HB 17	20	21	51	51	96	134	444	493	467 480	134 480	31 107 134 160
HB 18	20	21	51	51	96	134	294	299		134	31 107 134 160
HB 19	20	21	51	52	96	209			209		31 134 149 201 202 210 299 444
HB 20	20	21	51 226	53	96	294	466	497	226 484 485 492	294 493 495	31 258 291 298 299 444 445 489 490 495
HB 21	20	21	61	61	96	196	448	490	64 196 197 481	197 481	31 84 107 108 134 149 160 444

	Introduced	Referred	Reported	Readings			House Message	Enrolled	Sub. or Amend	Voting	Other Action
				1st	2nd	3rd					
HB 22	20	21									31
HB 23	20	21	61 167	65	96	291	466	497	83 84 167 482 493	291 493 495	31 97 128 132 134 159 202 206 299 445 489 490 495
HB 24	28	28									31 96 159
HB 25	28	28									107
HB 26	28	28	136	136	156	210			141	211	107 159 166 202 299
HB 27	28	28	85	85	107	296	460	465	86 95 296	296	57 193 214 445 491
HB 28	30	30	91 130	91	107	198	489	493	130 198 490	200 490	31 128 134 149 159 193 206 491
HB 29	30	30									31 97 132 149
HB 30	31	61	114 263	116	132	295	489	490	263 290 295	295	96 149 207 291
HB 31	31	61									107
HB 32	32	61	99 153	99	107	214	491	494	153	216	61 128 159 193 202 206 214 299 444
HB 33	35	61									107
HB 34	35	61	85	86	107	197	448	453	197	197	61 97 108 128 134 206

	Introduced	Referred	Reported		Readings		House Message	Enrolled	Sub. or Amend	Voting	Other Action
				1st	2nd	3rd					
HB 35	35	61	124 150	127	132	292	460	465	292	292	107 149 159 193 299 445
HB 36	61	106									
HB 37	61	106									127 455
HB 38	61	106									127
HB 39	85	106									166
HB 40	85	106									
HB 41	108	109	186	186	206				187		127 206 445 447
HB 42	108	109	186	187	206	296	460	465		296	127 206 445
HB 43	127	149	204	204	290						166 441 443 489
HB 44	129	149									134 166
HB 45	129	149									134 166
HB 46	129	149									166
HB 47	136	149	225	225	290						193 441
HB 48	150	166									203
HB 49	161	206									
HB 50	167	202									
HB 51	204	217									

HISTORY OF HOUSE RESOLUTIONS

(Numbers refer to page of House Journal. The text of a bill is given on first reading.)

		Introduced	Referred	Reported	Readings			Adopted	Senate Message	Enrolled	Other Action
					1st	2nd	3rd				
HR	1	20						24			
HR	2	16						16			
HR	3	10						10			
HR	4	17	18	21	21	28	31	31			18 31 34
HR	5	17	18								
HR	6	17	18								18
HR	7	17	18								96
HR	8	20						23			
HR	9	20						23			
HCR	10	20	21	117	117	132	208	208	460	465	31 193 206 299 460
HCR	11	27						27			
HR	12	28	28	57	57	96	198	198			128
HR	13	30						32			32
HR	14	30						33			
HCR	15	85	106								
HR	16	85	106	129	129	156	207	207		208 299	96 107 166 206
HR	17	85						96			134
HR	18	85	106								107
HR	19	106						132			
HR	20	106						109			
HR	21	106						108			
HR	22	129						133			
HR	23	129						133			
HR	24	129						133			
HJR	25	136	149	217	217	290					156 441 444
HCR	26	150	166	203	203	206	296	296	466	493	166 206 444
HR	27	150	166	258	258	290	447	447			193 258 441
HR	28	167	202								258
HR	29	204						207			
HR	30	204						459			460
HR	31	217	217					460			
HR	32	217	217	456	456	458		460			290 456
HR	33	260						291			291
HR	34	260						299			
HR	35	299						458			445
HR	36	299						445			445
HR	37	442						442			442 443 444
HR	38	442						444		455	
HR	39	458						458			
HR	40	491						491			
HCR	41	480						481			
HCR	42	497						497	498		

HISTORY OF SENATE BILLS

(Numbers refer to page of House Journal. The text of a bill is given on first reading. Sponsors are indicated on the page of introduction.)

		Senate Message	Re-ferred	Re-ported	Readings			En-rolled	Sub. or Amend	Voting	Other Action
					1st	2nd	3rd				
SB	1	129	149	218	218	290	461	497	225	461	156 159 441 491
SB	2	30	30	56	56	96	135	150		135	33 107 160
SB	3	33	61	440	440	442					107 456
SB	5	30	30	35	50	96	297	497	208 297	298 485	33 97 128 159 193 214 291 445 453
SB	6	84	106	204	204	290	448	453		448	107 441
SB	8	30	30	35	35	96	135	453	50	135	33 107 160
SB	10	129	149	189	190	206	298	445	298	298	159 166 206 445
SB	12	129	149	232	232	290	450	497	247 248	455	149 206 291 298 441 443 451 452 453 454 455 460
SB	15	97	109	150 300	150	193	461	497	300 438 461 462 463 464	464	148 202 206 291 298 441 443 450 491
SB	16	167	202	217	217	290	448	453		448	203 441
SB	17	214	217	440 466	440	442	489	497	466	489	258 443 456 465 466
SB	18	167	202	253	253	290	449	467	254 449	449	203 291 441

		Senate Message	Re-ferred	Re-ported	Readings			En-rolled	Sub. or Amend	Voting	Other Action
					1st	2nd	3rd				
SB	20	214	217	260	262	442	464	484	464	464	258 456 491
SB	23	214	217	260	260	442	465	484		465	258 456
SB	24	198	202	263	263	442	465	484		465	203 456 491

HISTORY OF SENATE RESOLUTIONS

(Numbers refer to page of House Journal. The text of a resolution is given on first reading or adoption. Joint resolutions are designated SJR; concurrent resolutions are designated SCR.)

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